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LEGISLATIVE HISTORY

Public Law 89-92
S. 559

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INDEX AND SUMMARY OF S. 559

Jan. 15, 1965	Sen. Magnuson introduced and discussed S. 559 which was referred to the Senate Commerce Committee. Print of bill and remarks of author.
Jan. 18, 1965	Rep. Rogers, Tex., introduced H. R. 3014 which was referred to the House Interstate and Foreign Commerce Committee. Print of bill.
May 6, 1965	Senate committee ordered S. 559 reported with amendments.
May 19, 1965	Senate committee reported S. 559 with amendments. S. Report No. 195. Print of bill and report.
May 27, 1965	House committee voted to report H. R. 3014 with amendment.
June 8, 1965	House committee reported H. R. 3014 with amendments. H. Report No. 449. Print of bill and report.
June 15, 1965	House Rules Committee reported resolution for the consideration of H. R. 3014.
June 16, 1965	Senate passed S. 559 as reported.
June 22, 1965	House passed S. 559 with amendment (in lieu of H. R. 3014).
	House conferees were appointed.
	H. R. 3014 laid on table due to passage of S. 559.
June 23, 1965	Senate conferees were appointed on S. 559.
July 1, 1965	House received conference report on S. 559. H. Report No. 586. Print of report.
July 6, 1965	Senate agreed to conference report on S. 559.
July 13, 1965	House agreed to conference report on S. 559.
July 27, 1965	Approved: Public Law 89-92.

Hearings: H. committee on H. R. 3014
S. committee on S. 559, Parts 1 and 2.

DIGEST OF PUBLIC LAW 89-92

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT.

Provides that effective January 1, 1966, cigarettes may not be manufactured, imported, or packaged for sale or distribution in the U. S. unless the package is conspicuously labeled: "Caution--Cigarette Smoking May be Hazardous to Your Health"; no different statement relating to smoking and health may be required on any cigarette package; no statement relating to smoking and health may be required in the advertising of cigarettes labeled in accordance with the Act (provisions relating to advertising terminate on July 1, 1969); authorities of the FTC with respect to trade practices and regulations in the advertising of cigarettes are not otherwise affected; and requires HEW and FTC to report periodically to Congress concerning designated areas of interest.

JANUARY 15, 1965

A BILL

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Federal Cigarette Label-
4 ing Act”.

6 SEC. 2. As used in this Act—

9 (b) The term “package” means a package, box, carton,
10 or container of any kind in which cigarettes are offered for
11 sale, sold, or otherwise supplied to consumers.

1 (c) The term “person” means any individual, partner-
2 ship, corporation, or any other business or legal entity.

(d) The term “sale or distribution” includes sampling
and means of distribution other than sales.

(e) The term "Cambridge Filter Method" is that method of measuring tar and nicotine yields presented at the seventy-seventh annual meeting of the Association of Official Agricultural Chemists, on October 16, 1963, at Washington, District of Columbia.

(f) The term “United States” means the several States,
the District of Columbia, and possessions of the United
States.

13 LABELING

SEC. 3. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which (1) fails to bear the following statement:

18 “Warning: Continual Cigarette Smoking May Be Hazardous
19 to Your Health.”

20 or (2) fails to state the average tar and nicotine yields per
21 cigarette as determined by the Cambridge Filter Method or
22 such other method as may hereafter be approved for such
23 purpose by the National Bureau of Standards. The foregoing
24 statements shall be located prominently on the package in
25 conspicuous and legible type in contrast by typography,

1 layout, or color with other printed matter on the package.

2 PREEMPTION

3 SEC. 4. No other warning requirement shall be imposed
4 on cigarette labeling or packaging by any Federal, State, or
5 local authority.

6 CRIMINAL PENALTY

7 SEC. 5. Any person who violates the provisions of this
8 Act shall be guilty of a misdemeanor and shall on conviction
9 thereof be subject to a fine of not more than \$100,000.

10 INJUNCTION PROCEEDINGS

11 SEC. 6. The several district courts of the United States
12 are invested with jurisdiction, for cause shown, and subject to
13 the provisions of section 381 (relating to notice to the
14 opposite party) of title 28, United States Code, to prevent
15 and restrain violations of this Act upon application of the
16 Attorney General of the United States acting through the
17 several United States attorneys in their several districts.

18 CIGARETTES FOR EXPORT

19 SEC. 7. Cigarettes manufactured, imported, or packaged
20 (1) for export from the United States or (2) for delivery to
21 a vessel or aircraft, as supplies, for consumption beyond the
22 jurisdiction of the internal revenue laws of the United States
23 shall be exempt from the requirements of this Act, but such
24 exemption shall not apply to cigarettes manufactured, im-
25 ported, or packaged for shipment to United States military

1 vessels, installations, or shore-based activities wherever such
2 vessels, installations, or activities may be located.

3 SEPARABILITY

4 SEC. 8. If any provision of this Act or the application
5 thereof to any person or circumstance is held invalid, the
6 other provisions of this Act and the application of such
7 provision to other persons or circumstances shall not be
8 affected thereby.

9 EFFECTIVE DATE

10 SEC. 9. This Act shall take effect one hundred and
11 twenty days after the date of its enactment.

A BILL

To regulate the labeling of cigarettes, and for
other purposes.

By Mr. MAGNUSON, Mr. BENNETT, Mr. CLARK,
and Mr. MOSS

JANUARY 15, 1965

Read twice and referred to the Committee on
Commerce

Government assumed a new role in this expansion. Never before had our Government been dedicated to acting for and with American private enterprise to promote the sale of U.S. goods. The people in our State and Commerce Departments had little precedent to follow as they began the task of helping to sell American goods in overseas marketplaces. It is not, after all, typical U.S. Government or simple service or superficial assistance.

Our people learned some promotional devices from Great Britain, France, and Japan—among others—because these nations have had to export in order to live. Their businessmen were used to being joined by their governments in joint promotions and were used to being represented effectively in overseas business operations.

While our international payments were overwhelmingly in our favor, American business seemed to need no such help—and they sought none.

But the dollar gap of the early 1950's gave way to the competitive challenges of adverse payments and the outflow of gold in the late 1950's and the early 1960's.

In this change, there has been a new role for Congress to play, a role which we have only partially accepted.

Close cooperation between government and business in furthering national interests through world trade is a continuing partnership in which Senators and Representatives share, and should increasingly share.

The truth is that where Congress has participated most fully, the programs appear to have been most successful. I believe there is much room for further effort by Congress and further accompanying success for our country.

One cooperative business-government program which has operated effectively, in part because of the close working relationship of its pilots in the administration and those of us in Congress, is the trade mission project.

U.S. trade missions, sponsored by the Bureau of International Commerce, are groups of private businessmen sent abroad to stimulate sales, locate distributors and help bring American companies, investors, overseas customers, and venture partners together. This program represents an unusual business-government cooperation which Reader's Digest last year called "A government-business team that works."

Today, the Department of Commerce conducts at least six special trade promotion programs to help American firms sell in emerging overseas markets. All this is with the assistance of the Foreign Service.

We have trade centers—miniature merchandise marts—in London, Frankfurt, Tokyo, Milan, and Bangkok. We support exhibitions at international trade fairs around the globe. We have sample product displays at smaller places. We mount business information centers at trade shows. We assist mobile trade fairs moving by ship and plane.

In the past 4 years more than 2,000 U.S. firms have sold products and tested markets at exhibitions and centers from Sydney to Stockholm.

But the oldest program—and one of our most successful—is the trade missions. Another 2,500 firms have submitted 15,000 proposals to prospective buyers abroad through trade missions—face-to-face talks between key American businessmen and their counterparts in other countries.

The approach has had unusual success. Trade missions have cost the taxpayers \$2 million in the last 4 years. But initial sales and investments have already resulted in more than \$35 million being returned to this country. Continuing sales from these missions alone will account for between \$100 and \$500 million, according to the most reliable estimates.

Appropriations have dropped each year, but the number of missions has grown from 9 annually to more than 20. Its cost-benefit ratio is among the highest of any Government program.

Reader's Digest concluded:

The cost of the program to the taxpayers is negligible compared to the profits and benefits to the free economy of the West.

This mission program is but one example of trade expansion. It is a great tribute to Secretary Hodges and to the Trade Missions Director Roy Gootenberg and Gene Braderman.

Congress helped create this program. In 1954, President Eisenhower asked for and was authorized a program to help create a better image of American business and culture overseas. The administration directed attention to trade fairs, missions, and sport and cultural presentations to build up mutual understanding. Experiments in this program developed some of the techniques used in the last 4 years when we had to sell more goods, equipment, and services in order to protect the dollar and bring the free world closer together through free enterprise.

In 1961, Secretary Hodges asked Congress to help as he sought to shift emphasis from helping foreign businessmen to service to U.S. businesses. We had a great need to find topnotch American businessmen to sell advantages of U.S. goods and know-how.

We in Congress have proposed many of the business and industrial leaders who have done this amazing sales job. Some of those distinguished leaders who have been on trade missions include: George Price, president of National Homes; Joseph Hall, chairman of Kroger's; Frank Cruger, chairman of the National Small Business Association, and Lester Wolff, president of Cooperative Marketing who only recently was elected to Congress. This month Alfred Stokely, president of Stokely-Van Camp, leaves on a mission.

In 1963, Secretary Hodges wisely turned to another kind of mission to work in a different sector. Industrial and trade associations, chambers of commerce, Governors, and others began running missionaries with the aid and planning of the Government. The Department worked effectively with businessmen and manufacturers and consulted with Congress to make these missions work. At least six States have had successful missions. So have industries like apparel, lumber, furniture, leather and appliances.

Cooperation has been successful. Our \$25 billion in exports—the annual rate—is up \$6 billion in 4 years. That is at the rate of 30 percent. Yet, I believe this is nothing more than a significant start.

Cooperation involving Congress, the administration and free, private enterprise must be given new thrust in several directions. I believe an International Commerce Subcommittee within the Senate Commerce Committee is an essential part of the formula for continued and greater success in world trade. In addition, it would be a shining symbol of the Senate's desire to see trade flourish as the result of a government-business partnership.

Such a subcommittee also would be able to delve deeply into the myriad of problems which a shrinking world and a growing international trade create. It would help Congress to help lead in some vital areas:

First. Iron Curtain countries. The U.S. Chamber of Commerce recommends the Government "reevaluate its restrictions on trade with European satellites, with a view toward eliminating those restrictions not necessary for security and which are harmful to the U.S. competitive position." Increasing numbers of the business community are asking about doing business with the Soviet Union and other Eastern European countries. They say they do not want us to lose trade to European nations now dealing with the Russians.

What should our policy be on export control legislation?

What about most-favored-nation treatment for Eastern Europe?

What about long-term credit for trade with Russia?

What about the possibilities of trade with the Soviet bloc to build understanding and ease the cold war? Or as a wedge between the Soviets and the Red Chinese?

Second. Developing countries. My trip to Africa 2 years ago to seek out trade possibilities convinced me that we have not even begun to build markets in developing nations. To do so, we may have to help stimulate their annual growth and help them achieve the goal of 2½ percent increase a year. This means a new look at aid and at our trade policies and programs.

What should Congress do about improved export financing and credit to make them competitive in underdeveloped countries?

What about financing of construction and engineering tenders and contracts in Africa and Latin America?

What about bringing business investment and planning into AID programs?

Third. Trade Expansion Act changes. This act was a mandate to chop down tariff walls mutually with other free nations. The Trade Expansion Act was only a beginning. And the implementation through the Kennedy Round of GATT negotiations is only barely off the ground. Yet, weaknesses already are apparent and refinements are already necessary. Trade adjustment assistance authorized for injury from import competition is apparently a failure because of 11 cases denied relief by the Tariff Commission. Surely, Congress did not

mean to make adjustment assistance as difficult to gain as the Commission has interpreted. The Trade Expansion Act has to be amended, it seems, in order to make adjustment meaningful and effective.

There is almost no end to the work for an International Commerce Subcommittee. The subcommittee could focus on opportunities for more trade and on problems in trade. It could help Congress lead the way to a more prosperous economy and a stronger free world.

The bridges of trade have already contributed mightily to peace and prosperity and to a sound dollar. They can be an even greater factor in a better world ahead whether we choose simply to compete with other friendly nations or with potential enemies or whether we choose to make trade itself a bridge of understanding.

In any case, if we are to lead effectively, we must legislate effectively. To do so, I believe we need an official part of this body to examine, to probe, to inquire, to weigh evidence, and to recommend. This is why I believe so fervently in the need for this new subcommittee.

FEDERAL CIGARETTE LABELING ACT

Mr. MAGNUSON. Mr. President, I believe that an adult has the right to choose his own poison. But I also believe that he has the right to know just what kind of a risk he is taking. I am therefore today introducing a proposed Cigarette Labeling Act to require adequate warning and tar and nicotine statements on all cigarette packages.

The American people want this protection. A Public Health Service survey has disclosed that 7 out of 10 believe "cigarette smoking is enough of a health hazard for something to be done about it." And, by a ratio of nearly 2 to 1, those polled favored compulsory warnings.

This survey shows that though many Americans are now aware that smoking is harmful, too many others, particularly teenagers, have not yet got the message.

Too many are still tempted to say "if cigarettes were really so harmful, the Government would certainly do something about it."

I am convinced that only a prescribed warning on each cigarette package would really bring home to the smoker, or the teenager about to become a smoker, the sober fact that cigarette smoking can be injurious to him.

What about safer cigarettes? Do tar and nicotine yields really make a difference? The Public Health Service believes they do.

We are convinced—

The Assistant Surgeon General told a House committee last August—

you can make a safer cigarette, much safer. Some cigarettes have been developed that have about a tenth of the nicotine and tars of the ordinary cigarette.

Eight out of ten people—including 7 out of every 10 of the smokers—polled by the Public Health Service wanted to be told just what the tar and nicotine score is.

As I have for many long years worked to promote the development and growth of the National Cancer Institute to seek the answers to the cancer mysteries that plague our Nation, so I now believe that it is our responsibility to arm the Public Health Service in its battle against smoking-caused cancer and other disease.

The Federal Cigarette Labeling Act will require each and every package of cigarettes to carry in a "prominent" place on the label, in "conspicuous and legible" type the statement "Warning: continual smoking may be hazardous to your health."

This bill would also require that each package label state the average tar and nicotine yield per cigarette as uniformly determined by the method approved by the Federal Trade Commission so that there will no longer be conflicting tar and nicotine claims.

Failure to comply with the requirements of this statute is to be made a criminal act to be enforced by fines up to \$100,000.

The Senator from Oregon [Mrs. NEUBERGER] has long been in the forefront of efforts to alert us to the hazards of smoking. The Commerce Committee is indeed fortunate to have her as a new member, and we are grateful that we will have the benefit of her expertise to assist the committee in developing the most appropriate legislation in this field.

Mr. President, I ask unanimous consent that a statement by Dr. Luther L. Terry, Surgeon General of the U.S. Public Health Service, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS¹ BY LUTHER L. TERRY, M.D., SURGEON GENERAL, PUBLIC HEALTH SERVICE, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A few weeks ago at our annual Christmas party a group of our people presented their annual good-natured spoof of some of the year's activities.

One of their verses, sung to the tune of "On Top of Old Smokey," went as follows:

"On Top of Old Smoking

A year has gone by

But the smoke we're deploring

Still gets in our eye."

I am happy to say, at this anniversary meeting, that while we still can—and do—deplore the amount of cigarette smoking still going on, measurable and encouraging progress has been made during the year. In a few moments, I shall present some statistical evidence on this progress.

What is equally heartening to me, however, is the national concern which has been expressed about the problem and the national action which has been generated. To my mind, the formation of the National Interagency Council on Smoking and Health represents the finest example of this concern.

All of us know that we are faced with a long, slow, and—to a considerable extent—uphill campaign. The fact that so many organizations represented here today are pooling their efforts on behalf of a single

goal is our best guarantee of eventual success.

We are moving forward. And we are moving forward in a united and purposeful way.

When the announcement of the Advisory Committee's report was made 1 year ago today, there were many questions raised by the press and by others. Some of them were unanswerable then; some are still unanswerable. On the others we are making definite progress.

The principal and obvious question was: Would a substantial number of people stop smoking?

Today we can ask the same question. Many indices suggest that, after a pronounced downward dip during the spring months, cigarette smoking is once more on the increase. Among these indices are warehouse shipments and the figures on tax returns.

While these figures certainly have some significance—and I would not pretend that they are not disquieting—they do not tell the whole story.

We have very recently completed some studies which show a different result. Let me place them in historical perspective.

In 1955, a survey made by the Bureau of the Census at the request of the Public Health Service found that 59 percent of adult men and 31 percent of adult women were cigarette smokers.

In 1962, a survey undertaken by the American Cancer Society found that the proportion of male smokers had remained the same and that the proportion of female smokers had increased by 5 percentage points.

In July of last year, the Public Health Service's National Center for Health Statistics began including questions on smoking habits in its surveys.

A preliminary analysis of the Center's figures for the months of July, August, and September indicates that the proportion of adult cigarette smokers has actually declined.

Last fall the Service undertook a survey to gain more accurate data in depth on the smoking habits, knowledge, and attitudes of the general population. More than 300 items of information were sought from a random nationwide sample of 3,500 households. This survey also showed a drop in the proportion of adult cigarette smokers, estimated as follows:

Instead of the 59 percent of 1955 and 1962, there are now only about 52 percent male cigarette smokers in our population.

A decline of 7 percentage points does not appear to be much—and it is certainly less than we would wish. But if these figures stand up under final analysis, it means that: nearly one out of four adult men has given up cigarettes; there are now nearly as many men who are noncigarette smokers as there are smokers.

Smoking among women, according to our surveys, has also turned downward. Although the decline is small—only 2 to 3 percentage points—this is the first time on record in which the trend has been downward.

If we consider both men and women, it would appear that there are as many adults today who have never been cigarette smokers as there are smokers.

If smoking habits had continued at the level of 3 years ago, there would be about 3½ million more smokers than there actually are today.

I would repeat that we in the Public Health Service are by no means satisfied with the progress that has been made. On the other hand, I am convinced that our findings of a year ago, widely publicized and followed up throughout the year by an alert and responsible press, have had a discernible and encouraging effect on the smoking problem.

That public awareness of the hazards involved is widespread is evident in other ways.

¹ Presented at the Conference of the National Interagency Council on Smoking and Health, National Education Association Center Auditorium, 1201 16th Street NW., Washington, D.C., at 10 a.m.

In the area of beliefs and attitudes the data are both stimulating and encouraging. For this reason, I want to share the first results with you, well in advance of their publication. The figures, I am told, are preliminary but reasonably firm.

Many of the questions asked involved the subject's knowledge or beliefs about the relation of smoking to specific diseases. For example, people were asked: Is there anything a person might do that could cause lung cancer?

Sixty-nine percent spontaneously mentioned smoking cigarettes.

It is, of course, of great importance that smokers themselves become concerned about the habit. A large majority of the cigarette smokers surveyed indicated that they believed smoking to be harmful.

A number of questions sought to explore the possibility of remedial action. Presented with the statement: "Cigarette smoking is enough of a health hazard for something to be done about it," 7 out of 10 agreed and only 1 out of 6 disagreed.

Nine out of ten said they were in favor of more public education on the health hazards of cigarette smoking, for both adults and children.

Four out of five people said they were opposed to the practice of featuring athletes and celebrities in cigarette advertising.

By a ratio of about 2 to 1, those polled favored a compulsory warning on cigarette package labels and in advertising.

Eight out of ten—including 7 out of 10 smokers—also said they believed that a statement on tar and nicotine content should be required on each package.

The Public Health Service during this year has interested itself also in the behavior and attitudes toward smoking of students in the health professions. A study conducted among more than 10,000 senior medical, dental, and osteopathic students is yielding interesting results.

Compared to the general male population of comparable age, senior medical students, for example, show far less tendency to take up cigarettes—55 percent as against 83 percent. And among medical students who take up the habit, there is far greater tendency to quit—44 percent as against 18 percent in a given time period.

This suggests that in groups which hold health important, have the facts, and understand the health implications of the facts, the cigarette habit is reversible. Because the medical profession is frequently able to set an example in personal health that the general population tends to follow, this finding among medical students is a hopeful augury for the future.

The experience of a year, in brief, demonstrates that a deeply ingrained personal habit can be changed where the facts are made widely known. I might add that, so far, most of this has been accomplished through the mass communications media. I doubt that any health message has ever reached so many in so short a time.

What have been some of our Service efforts during this past year?

You will perhaps be interested, first of all, in the distribution of the report itself.

Altogether during the first year, including sales by the Superintendent of Documents, more than 350,000 copies of the full report on smoking and health have been distributed. For a scientific publication, this is quite substantial. Equally gratifying have been the number and distribution of summaries and special audience publications inspired by the report. The Service has worked closely with many Government agencies and voluntary organizations to make these "grandchild" publications both appealing and accurate. Five separate health information pamphlets on various aspects of the report, for example, were prepared and

distributed by various units of the Public Health Service.

As one means of promoting distribution as well as assisting health agencies and education groups, we have distributed about 6,000 information kits of sample publications on smoking and health.

We are involved as well as some 15 behavioral studies to get at the psycho-social dynamics of smoking: why people start smoking and others don't, why some can stop and others have difficulty. These include studies of adult and youth educational programs, withdrawal clinics, the roles of physicians and other professional healthworkers and the value of group treatment.

One of the most immediate and far-reaching byproducts of the smoking and health report has been the impetus it has given to research on the components of smoke and their physiological effects. Not only has the report stimulated more research, but the field has attracted competent investigators who previously had been giving priority to other problems.

In addition to expanded work at the National Institutes of Health, new research is being sponsored by universities and foundations, and, as you know, by the American Medical Association with financial help from the tobacco industry itself.

Additional data from three long-range studies—of U.S. war veterans, the American Cancer Society, and the study of the British physicians—continue to reinforce the earlier findings evaluated in the smoking and health report. All three strengthen the evidence that people who stop smoking are greatly benefited, even if they have smoked for many years.

The wealth of research information accumulated for the Advisory Committee is being kept up to date through the use of the medlars computer system at the National Library of Medicine. Plans are being developed for a continuing review and analysis of the worldwide literature on this subject.

Most of the activities I have mentioned today are joint programs with State and local health agencies, education institutions, and others. I have omitted a great many which, in the absence of financial support, we have been able to assist only by consultation and technical advice.

One of the principal ways by which we keep informed is through the National Inter-agency Council, which has brought us together here today. The Public Health Service is delighted with the rapid progress being made by the Council.

We particularly want to welcome our distinguished new chairman, Mr. Emerson Foote, whose enlightened example will serve the Council's cause as it has recently served the President's Commission on Heart Disease, Cancer, and Stroke.

The report of that Commission, as most of you know, included a strong endorsement of the report on smoking and health and recommended an expenditure of \$10 million over a 3-year period.

Our request for a supplemental appropriation of \$1.9 million last summer was deferred by the Congress. We received encouragement from a number of Members of the Congress to renew the request this year. This we hope to do in the weeks ahead. If we are to put the National Clearinghouse on Smoking and Health into full operation it is clear that funds will be needed.

Last year, the Congress did appropriate \$1.5 million to study the health-related problems of tobacco. This appropriation, which was made to the Department of Agriculture, has been highly useful. The Department of Agriculture is working very closely with the Public Health Service in developing suitable research into the properties of tobacco smoke and leaf constituents and their biologic effects.

In summary, where do we stand today, 1 year after the report?

First of all, despite the charge that nothing has really happened, and that the smoking habits of the Nation are right back where they were, many changes have already taken place.

Adult cigarette smokers are showing a clear trend away from the habit. At least 18 million Americans are now ex-cigarette smokers—and they have been off long enough for most of them to stay off.

If we take into consideration the increase in population, the drop in total cigarette consumption this past year is substantial. If, in fact, "nothing had happened," cigarette consumption would now be much higher than it was a year ago—and it isn't.

Much more important have been the changes taking place below the surface—at the levels of attitude and belief, which are often the precursors of change in behavior.

Many smokers have become uneasy about the relationship of cigarettes to illness. Millions of adult cigarette smokers are ready to be fully convinced that the time has come to change their smoking habits. And, therefore, the opportunity to convince them in 1965 and the years ahead is great.

In view of the massive opportunity for positive action, the time is surely ripe to launch a truly national effort that will convince people of the dangers of cigarette smoking.

If we exert such an effort, I am convinced that many millions of smokers, now on the fence, will decide in favor of their own health and well-being.

The facts and figures and surveys I have cited are encouraging. They offer real hope for the future. But, as Winston Churchill phrased it, "we are only at the beginning of the beginning."

Unless we continue to exert ourselves in the struggle that lies ahead, we can lose what ground has been gained. In the face of the threat to health which cigarette smoking presents, our gains have been more, perhaps, than we might have expected but they are less than we might have hoped for. The real job lies before us.

For our part, I promise that in the months ahead the Public Health Service will do all it can to bring about a reduction of cigarette smoking in the clear and established interests of the Nation's health.

Mr. MAGNUSON. Mr. President, I also ask unanimous consent that the bill lie on the table until Friday, January 22, for cosponsors.

The PRESIDING OFFICER. The bill will be received and appropriately referred, and will lie on the table as requested.

The bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, introduced by Mr. MAGNUSON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, on this subject, many people have asked me when we expected to start hearings on the bill. I believe that it is the consensus of most members of the committee that we wish to hold hearings on this particular legislation and other bills, before the committee at a very early date. If possible, we wish to set the hearings within the next 30 days.

FEDERAL INSTALLATIONS POLLUTION

Mr. MUSKIE. Mr. President, I introduce, for appropriate reference, a bill

to amend the Federal Water Pollution Control Act, as amended, and the Clean Air Act, to provide for improved cooperation by Federal agencies to control water and air pollution from Federal installations and facilities and to control automotive vehicle air pollution. The bill, which had its origin in a suggestion by the junior Senator from Delaware [Mr. Boggs], is cosponsored by him, Mr. BARTLETT, Mr. BAYH, Mr. BREWSTER, Mr. FONG, Mr. GRUENING, Mr. KENNEDY of Massachusetts, Mr. MILLER, Mr. MONRONEY, Mr. PEARSON, Mr. RANDOLPH, Mr. RIBICOFF, and Mr. WILLIAMS of New Jersey.

The bill which I am introducing would provide the following in the water pollution control field:

First. The Secretary of Health, Education, and Welfare may establish standards of water quality for discharges from Federal installations.

Second. There would be authorized appropriations to install, maintain, and operate waste disposal systems at Federal installations. Funds appropriated would be administered by the Secretary of Health, Education, and Welfare and be made available to other Federal agencies as required.

Third. There would be authorized a program for the training of personnel to operate and maintain waste water treatment facilities.

Fourth. Each Federal agency would be required to inform the Secretary of Health, Education, and Welfare of their waste disposal practices and the Secretary in turn would make an annual report to Congress on programs carried out.

In the field of Federal air pollution control the bill would provide for the following:

First. The Secretary of Health, Education, and Welfare would be authorized to establish classes of potential air pollution sources for any Federal installation and to enter such building, installation, or property for inspection purposes.

Second. There would be authorized appropriations to install, maintain, and operate devices or other means of controlling air pollution from Federal installations. Funds appropriated would be administered by the Secretary of Health, Education, and Welfare and be made available to other Federal agencies as required.

Third. There would be authorized a program for the training of personnel to operate and maintain air pollution control devices or other means of controlling air pollution and the Secretary would be required to report to Congress annually on the status and effectiveness of actions taken.

Fourth. It would be required that, for the fiscal year beginning July 1, 1965, and for each fiscal year thereafter, all automotive vehicles purchased for any of the Federal executive departments must be equipped with a device which would prevent or reduce pollutants from exhaust discharges to standards prescribed by the Secretary of Health, Education, and Welfare.

The portion of this bill dealing with water pollution control activities at Federal installations was dealt with in part

in S. 649 of the 88th Congress. However, after considering the nature and magnitude of the problem of water pollution from Federal installations, as well as the problem of air pollution at such installations, it became apparent that it would be best to make these and other related matters the subject of separate legislation.

The cooperation of Federal departments and agencies in controlling the wastes from buildings, installations, or other property, which find their way into our water courses and into our atmosphere, has not been equal to the leadership role in water and air pollution control rightfully contemplated for the Federal Government. Surely, if we expect private industry, municipalities and others to make investments in facilities to protect and preserve our air and water resources we cannot, in all fairness, ignore Federal sources of pollution.

It is recognized that much is being done by many Federal agencies in studying ways of coping with the problems, but there is no coordinated aggressive program of determining the extent of air and water pollution from these sources, providing means of correcting them, and operating and maintaining facilities to control pollutants.

It has been found that Federal installations in December of 1960 discharged 46.1 million gallons per day of untreated sewage directly into surface waters and the ground. This untreated sewage should be subjected to treatment as soon as possible, even though the total untreated sewage discharged constitutes only 3 percent of the total estimated 1,500 million gallons of untreated municipal sewage that directly reaches surface waters and the ground. In addition, it is reported that about 88 million gallons per day of untreated industrial waste waters is discharged into surface waters and the ground. Much the same situation exists with respect to air pollution. Thus, it is evident that Federal agencies have not requested or utilized funds in adequate quantities to take care of the problem. For this reason, it is my proposal that the Secretary of Health, Education, and Welfare be assigned the responsibility of coordinating necessary control programs and administering funds appropriated for both air and water pollution control activities at these installations.

In other legislative proposals an effort is being made to attack the problem of air pollutants being emitted by the millions of automotive vehicles operating on our Nation's streets and highways. Again, the Federal Government can and should, by its own example, encourage the provision of air pollution control systems on vehicles purchased for its own use.

I would like to note that the General Services Administration, which procures for civilian use about 35,000 automotive vehicles annually for nationwide use, has already taken steps to have all 1966 model motor vehicles, purchased by them, equipped with exhaust control systems. This agency is to be commended for taking this action which I expect was prompted as a result of the adoption of

the Clean Air Act in December of 1963. I feel strongly that the action by the General Services Administration should be implemented by congressional approval and further that all vehicles purchased for military use should come equipped with air pollution suppression systems.

The ultimate responsibility of whether we do or do not eliminate air and water pollution from Federal installations and vehicles under Federal control rests with Congress. The Secretary of Health, Education, and Welfare would advise Congress of the source of pollutants, the need for control measures, and request the necessary appropriations to carry on necessary programs.

I ask unanimous consent that the complete text of the bill, and a section-by-section analysis of the bill, be printed in the RECORD at this point.

THE PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 560) to amend the Federal Water Pollution Control Act, as amended, and the Clean Air Act, as amended, to provide for improved cooperation by Federal agencies to control water and air pollution from Federal installations and facilities and to control automotive vehicle air pollution, introduced by Mr. MUSKIE (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Installations, Facilities, and Equipment Pollution Control Act."

TITLE I—AMENDMENTS OF FEDERAL WATER POLLUTION CONTROL ACT

SEC. 101. Section 9 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466h) is amended by inserting "(a)" after "Sec. 9," and by adding at the end of such section the following:

"(b) In order to control water pollution which may endanger the health or welfare of any persons, any Federal department or agency having jurisdiction over any building, installation, or other property shall discharge wastes therefrom only in compliance with standards for such discharges which the Secretary may establish. The Secretary or his duly authorized representative is authorized to enter any such building, installation, or other property at reasonable times for the purpose of inspecting and investigating waste discharge practices.

"(c) There are hereby authorized to be appropriated necessary amounts to be expended for the installation, maintenance, and operation of waste disposal systems for any such building, installation, or other property and for which the Secretary has approved the plans and specifications as conforming to the purposes of this section. Such amounts shall be appropriated to the Department of Health, Education, and Welfare and shall be made available to the appropriate Federal department or agency concerned in accordance with a plan approved by the Secretary which will provide for prevention or control of discharges of waste and shall not be expended for any other purpose.

"(d) In order to assist in assuring appropriate maintenance and operation of the

H. R. 3014

JANUARY 18, 1965

A BILL

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Federal Cigarette Label-
4 ing and Advertising Act”.

5 FINDINGS

6 SEC. 2. The Congress hereby makes the following
7 findings:

8 (a) A Federal program dealing with cigarette labeling
9 and advertising is desirable to provide national uniformity
10 in labeling and advertising requirements for the cigarette
11 industry.

1 (b) The production, processing and distribution of ciga-
2 rettes, the employment directly and indirectly resulting there-
3 from, and the revenues derived from taxes imposed thereon,
4 affect commerce and the national economy.

5 DECLARATION OF POLICY

6 SEC. 3. It is the policy of the Congress, and the purpose
7 of this Act, to establish a comprehensive Federal program
8 to deal with cigarette labeling and advertising with respect
9 to any relationship between smoking and health, whereby—

10 (a) the public may be adequately informed that
11 cigarette smoking may be hazardous to health by inclu-
12 sion of a warning to that effect on each package of
13 cigarettes.

14 (b) Commerce and the national economy may be (i)
15 protected to the maximum extent consistent with this
16 declared policy and (ii) not impeded by diverse, nonuni-
17 form, and confusing cigarette labeling and advertising regula-
18 tions with respect to any relationship between smoking and
19 health.

20 DEFINITIONS

21 SEC. 4. As used in this Act—

22 (a) “Cigarette” means any roll of tobacco or other sub-
23 stance wrapped in paper or in any substance other than
24 tobacco, and intended for smoking.

25 (b) “Commerce” means commerce among the several

1 States or with foreign nations, or in any territory of the
2 United States or in the District of Columbia, or between any
3 such territory and another, or between any such territory and
4 any State or foreign nation, or between the District of
5 Columbia and any State or territory or foreign nation.

6 (c) "Territory" means the insular possessions of the
7 United States, the Commonwealth of Puerto Rico, and any
8 territory of the United States.

9 (d) "Package" means a pack or box, carton, or con-
10 tainer of any kind in which cigarettes are offered for sale,
11 sold, or otherwise supplied to consumers.

12 (e) "Person" means an individual, partnership, corpo-
13 ration, or any other business or legal entity.

14 (f) "United States" means the States, the District of
15 Columbia, and the territories and possessions of the United
16 States.

17 (g) "Sale or distribution" includes sampling or any
18 other distribution not for sale.

19 LABELING

20 SEC. 5. It shall be unlawful for any person to manufac-
21 ture, import, or package for sale or distribution within the
22 United States any cigarettes the package of which fails to
23 bear the following statement: "Caution: Cigarette Smoking
24 May be Hazardous to Your Health." The foregoing state-
25 ment shall appear on either of the two side panels of the

1 pack, or in the case of a cylindrical pack on the side thereof,
2 in not less than ten-point type on a twelve-point body. In
3 the case of boxes, cartons, or containers of any kind, other
4 than the individual pack, containing cigarettes, the state-
5 ment shall be printed on a side in not less than twelve-point
6 type on a fourteen-point base.

7 ADVERTISING

8 SEC. 6. Nothing herein contained shall be construed to
9 limit or to expand the authority of the Federal Trade Com-
10 mission with respect to the dissemination in commerce of
11 any false or misleading advertisement of cigarettes, provided
12 that the Commission shall not have authority in any pro-
13 ceeding under any statute administered by the Commission
14 to require the inclusion in any advertisement of any state-
15 ment concerning any hazard to health involved in smoking
16 cigarettes where the advertised cigarettes have been pack-
17 aged in conformity with the labeling provisions of this Act.
18 No Federal agency shall require any additional caution state-
19 ment on any package labeled in conformity with this Act.

20 PREEMPTION

21 SEC. 7. No caution statement with respect to smoking
22 and health other than specified herein shall be required on
23 any package. No caution statement with respect to smoking
24 and health shall be required in advertising for cigarettes

1 packaged in conformity with the labeling provisions of this
2 Act.

3 CRIMINAL PENALTY

4 SEC. 8. Any person who violates the provisions of this
5 Act shall be guilty of a misdemeanor and shall on conviction
6 thereof be subject to a fine of not more than \$10,000.

7 INJUNCTION PROCEEDINGS

8 SEC. 9. The several district courts of the United States
9 are invested with jurisdiction, for cause shown, and subject
10 to the provisions of section 381 (relating to notice to the
11 opposite party) of title 28, to prevent and restrain violations
12 of this Act upon the application of the Attorney General of
13 the United States acting through the several United States
14 attorneys in their several districts.

15 CIGARETTES FOR EXPORT

16 SEC. 10. Cigarettes manufactured, imported or packaged
17 (a) for export from the United States or (b) for delivery
18 to a vessel or aircraft, as supplies, for consumption beyond
19 the jurisdiction of the internal revenue laws of the United
20 States shall be exempt from the requirements of this Act:
21 *Provided*, That such exemptions shall not extend to cigarettes
22 manufactured, imported or packaged for shipment to United
23 States military vessels or shore-based activities wherever
24 such vessels or activities may be located.

1 SEPARABILITY

2 SEC. 11. If any provision of this Act or the application
3 thereof to any person or circumstances is held invalid, the
4 other provisions of this Act and the application of such pro-
5 vision to other persons or circumstances shall not be affected
6 thereby.

7 EFFECTIVE DATE

8 SEC. 12. This Act shall take effect one hundred and
9 twenty days after the date of its enactment.

A BILL

To regulate the labeling and advertising of
cigarettes, and for other purposes.

By Mr. ROGERS of Texas

JANUARY 18, 1965

Referred to the Committee on Interstate and Foreign
Commerce

May 6, 1965

12. AREA REDEVELOPMENT. Received from GAO a report "of the lack of compliance with statutory requirement for local financial participation in area redevelopment projects, Area Redevelopment Administration." p. 9388
13. POVERTY; PERSONNEL. Rep. Ashbrook inserted a listing of the salaries of top officials of the Office of Economic Opportunity. pp. 9386-7
14. LEGISLATIVE PROGRAM. Rep. Albert announced the legislative program for next week would include the following: Tues.: independent offices appropriation bill; Wed. and balance of week: International Coffee Agreement and additional authorizations for river basin plans. p. 9363
15. ADJOURNED until Mon., May 10. p. 9387

SENATE

16. DISASTER RELIEF. The Banking and Currency Committee reported with amendments S. 1796, to amend the Small Business Act to provide additional assistance for disaster victims (S. Rept. 177). pp. 9471-2
17. FOREIGN AID. Both Houses received from the President a communication "transmitting a supplement to his message of January 14, 1965, relative to foreign aid, to develop a program which is designed to strengthen the personnel capabilities of all the foreign affairs agencies of the Government (H. Doc. 161)." pp. 9388, 9470
18. EXPENDITURES; PERSONNEL. Received from the Joint Committee on Reduction of Nonessential Federal Expenditures a report on Federal employment and pay for Mar., 1965. pp. 9472-6
19. WATER RESOURCES. Sen. Anderson called attention to a new 450 page water resources research catalog, listing 1,545 project summaries, now available from the Sup't of Documents, GPO, at \$2.50 per copy. p. 9484
20. APPROPRIATIONS. The "Daily Digest" states that subcommittee of the Appropriations Committee "approved for full committee consideration H. R. 7060, fiscal 1966 appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and related independent agencies." pp. D264-5
21. CIGARETTE LABELING. The "Daily Digest" states that the Commerce Committee "ordered favorably reported with amendments S. 559, to provide for the regulation of the labeling of cigarettes distributed in interstate commerce." p. D365.

ITEMS IN APPENDIX

22. WATER POLLUTION. Extension of remarks of Sen. Randolph favoring legislation that would give tax recognition to amounts expended by industry to improve the quality of air and water. p. A2207
23. DISASTER RELIEF. Extension of remarks of Rep. Jacobs commending the President for his personal visit to disaster stricken Indiana and the Midwest. p. A2210
24. FOREIGN AID. Rep. Vivian inserted an article favoring the encouragement of greater private participation in our assistance programs. pp. A2210-3

Rep. Roybal inserted a summary of the proposed foreign aid program for 1966. pp. A2214-5

Rep. Bingham inserted excerpts from a report outlining the increased aid expenditures of other countries. pp. A2218-9

Rep. Corman inserted an article, "Rural Brazil Grateful for U. S. Aid--Food for Peace Gives Thousands New Lease On Life." pp. A2238-9

25. POVERTY. Extension of remarks of Rep. Moeller favoring poverty programs and stating that "poverty and its results are too real to be ignored." pp. A2216-8
Extension of remarks of Rep. Martin stating that "Poverty concerns the individual" and inserting an article, "Curing Poverty." p. A2228
Rep. Lindsay inserted an article, "Of Poverty, Policies and People." pp. A2228-9
26. OPINION POLL. Rep. Martin inserted the results of an opinion poll which includes wheat and feed grain programs. pp. A2219-20
27. LABELING; MARKETING. Rep. Halpern inserted his statement before the Senate Commerce Committee favoring enactment of the proposed fair packaging and labeling legislation. pp. A2236-7
28. SOIL CONSERVATION. Extension of remarks of Rep. Nelsen opposing proposed reductions in SCS appropriations and stating that "I can assure the experts in the Department of Agriculture that economic conditions on our family farms are already sufficiently low to provide adequate challenges for the poverty program." p. A2244

BILLS INTRODUCED

29. MARKETING. H. R. 7953 by Rep. Hagen, Calif., and H. R. 7967 by Rep. Sisk, to amend section 8c(6)(I) of the Agricultural Marketing Agreement Act of 1937, as amended, to authorize provision for marketing promotion and paid advertising under marketing orders for plums; to Agriculture Committee.
30. HOUSING. H. R. 7984 by Rep. Patman, H. R. 7985 by Rep. Barrett, and H. R. 7986 by Rep. Widnall, to assist in the provision of housing for low- and moderate income families, to promote orderly urban development, to improve living environment in urban areas, and to extend and amend laws relating to housing, urban renewal, and community facilities; to Banking and Currency Committee.
31. WATER POLLUTION. S. 1908 by Sen. Nelson, and H. R. 7976 by Rep. Stalbaum, to expand and improve existing law and to provide for the establishment of regulations for the purpose of controlling pollution from vessels and certain other sources in the Great Lakes and other navigable waters of the United States; to Merchant Marine and Fisheries. Remarks of Sen. Nelson pp. 9477-81
32. DISASTER RELIEF. H. R. 7694 by Rep. Roush, to provide additional assistance for areas suffering a major disaster; to Public Works Committee. Remarks of author p. 9357.
33. INTERGOVERNMENTAL RELATIONS. H. R. 7966 by Rep. Saylor, to strengthen intergovernmental relations by improving cooperation and the coordination of federally aided activities between the Federal, State, and local levels of government; to Government Operations Committee.

SENATE

May 19, 1965

8. CIGARETTE LABELING. The Commerce Committee reported with amendments S. 559, to regulate the labeling of cigarettes (S. Rept. 195). p. 10575
9. INTERNATIONAL MONETARY FUND. The Foreign Relations Committee reported H.R. 6497, to amend the Bretton Woods Agreements Act to authorize an increase in the International Monetary Fund quota of the U. S. (S. Rept. 196). p. 10575
10. WATERSHEDS. The "Daily Digest" states that the Agriculture and Forestry Committee voted to report (but did not actually report) "an original bill in lieu of an amended version of S. 99," to increase from 5,000 acre-feet to 12,500 acre-feet the maximum flood-water detention capacity of reservoirs under the Watershed Protection and Flood Prevention Act; and S. 199, with amendment, to permit cost of utility relocations under the Watershed Protection and Flood Prevention act to be borne by the Federal Government if the local organization is financially unable to bear such cost. p. D417
11. PERSONNEL; PROPERTY. The "Daily Digest" states that the Agriculture and Forestry Committee voted to report (but did not actually report) S. 1689, with amendment, to permit the hiring or rental of private property by the Forest Service from its employees at isolated locations; and H.R. 6691, to validate certain over-payments made by the Forest Service to Southwestern Indian firefighter crews from N. Mex. and Ariz. p. D417
12. FISH; WILDLIFE. Began debate on S. 1734, to conserve and protect Pacific salmon of North American origin (pp. 10592-5). The bill had been reported with amendments earlier (May 18, during adjournment) (S. Rept. 194) (p. 10574).
13. HOUSING. Sen. Javits submitted an amendment to S. 1599, to establish a Department of Housing and Urban Development, which would authorize the establishment of an Inter-Agency Coordinating Council. p. 10589-90.
14. LOANS; WATER SUPPLY. Cosponsors were added to S. 1766, to authorize Farmers Home Administration loans for rural water supply and water systems. p. 10590
15. FARM LABOR. Sen. Murphy inserted two editorials concerning the farm labor problem in Calif. p. 10610
16. COTTON. Sen. Tower commended and inserted a resolution of a Texas county Commissioners' Court "urging Congress to use its power to prevent a discontinuance of the skip-row practice of planting cotton for next year." p. 10611
17. PATENTS. Sen. Metcalf criticized the Administration's patent policy. pp. 10616-20

ITEMS IN APPENDIX

18. MARKETING. Rep. Gilligan inserted a brief summary of the truth-in-packaging bill. pp. A2484-5
19. POVERTY. Rep. Cederberg inserted an article questioning the benefits of the poverty program. p. A2485
20. FOREIGN TRADE. Extension of remarks of Rep. Martin, Ala., criticizing the administration's proposal "calling for relaxing trade restrictions with Soviet Russia and her Communist satellite nations." pp. A2485-6

21. ELECTRIFICATION. Extension of remarks of Rep. Schisler commending REA programs. pp. A2486-7
22. TEXTILES. Rep. Whitener inserted a constituent's letter in which he stated that "the cotton legislation passed last year, in my opinion, is largely responsible for the present improvement in the overall textile business." pp. A2503-4
23. RECREATION. Rep. Dingell inserted an address supporting Sleeping Bear Dunes National Lakeshore. p. A2504

BILLS INTRODUCED

24. PERSONNEL. S. 1997 by Sen. Monroney, to adjust the rates of basic compensation of certain officers and employees in the Federal Government; to Post Office and Civil Service Committee. Remarks of author pp. 10585-6
S. 1998 by Sen. Monroney, to establish the Federal Salary Review Commission to Post Office and Civil Service Committee. Remarks of author pp. 10585-6
25. LOANS. H. R. 8286 by Rep. Hansen, Iowa, to amend the Consolidated Farmers Home Administration Act of 1961 to provide additional assistance for disaster victims; to Agriculture Committee.
H. R. 8287 by Rep. Hansen, Iowa, to amend the Small Business Act to provide additional assistance for disaster victims; to Banking and Currency Committee
26. MILK. S. 1993 by Sen. Mondale, to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce; to Labor and Public Welfare Committee. Remarks of author pp. 10580-5
27. WATER RESOURCES. H. R. 8277 by Rep. Collier, to authorize the Secretaries of the Army, Agriculture, and the Interior to make Federal contributions to certain State water resource projects; to Public Works Committee.
28. DISASTER RELIEF. H. R. 8281 by Rep. Greigg, to amend the Agricultural Act of 1949, to take into consideration floods and natural disasters in reference to the feed grains program; to Agriculture Committee.
29. POVERTY. H. R. 8283 by Rep. Gibbons, to expand the war on poverty and enhance the effectiveness of programs under the Economic Opportunity Act of 1964; to Education and Labor Committee.
30. FEDERAL AID. H. R. 8288 by Rep. Krebs, to achieve the fullest cooperation and coordination of activities between the levels of Government in order to improve the operation of our Federal system in an increasingly complex society, to improve the administration of grants-in-aid to the States, to provide for periodic congressional review of Federal grants-in-aid, to permit provision of reimbursable technical services to State and local governments, to establish coordinated intergovernmental policy and administration of grants and loans for urban development, to provide for the acquisition, use and disposition of land within urban areas by Federal agencies in conformity with local government programs; to Government Operations Committee.

CIGARETTE LABELING

MAY 19, 1965.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

REPORT

together with

SUPPLEMENTAL VIEWS

[To accompany S. 559]

The Committee on Commerce, to whom was referred the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

PURPOSE AND SUMMARY OF THE BILL

The purpose of this bill is to provide adequate warning to the public of the potential hazards of cigarette smoking through cautionary labeling of cigarette packages.

In summary, the bill, as unanimously reported by the committee—

1. requires that every package and carton of cigarettes display on the front or back panel in conspicuous and legible type, the following statement: "Caution: Cigarette smoking may be hazardous to your health";

2. imposes a penalty of \$100,000 for violations of this provision;

3. prohibits any other warning requirement on the package or carton by any Federal, State, or local authority;

4. prohibits, for 3 years, any requirement that cigarette advertising include a statement relating to smoking and health by any Federal, State, or local authority; and

5. requires the Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare to report to Congress in 18 months, and annually thereafter on the question of smoking and health, and related matters.

BACKGROUND AND NECESSITY FOR CONGRESSIONAL ACTION

On January 11, 1964, the Surgeon General's Advisory Committee on Smoking and Health delivered its unanimous judgment: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

The committee's principal findings:

Cigarette smoking is associated with a 70-percent increase in the age-specific death rates of males. The total number of excess deaths causally related to cigarette smoking in the U.S. population cannot be accurately estimated. In view of the continuing and mounting evidence from many sources, it is the judgment of the Committee that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate.

LUNG CANCER

Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

The risk of developing lung cancer increases with duration of smoking and the number of cigarettes smoked per day, and is diminished by discontinuing smoking. In comparison with nonsmokers, average male smokers of cigarettes have approximately a ninefold to tenfold risk of developing lung cancer and heavy smokers at least a twentyfold risk.

The risk of developing cancer of the lung for the combined group of pipe smokers, cigar smokers, and pipe and cigar smokers is greater than for nonsmokers, but much less than for cigarette smokers.

Cigarette smoking is much more important than occupational exposures in the causation of lung cancer in the general population.

CHRONIC BRONCHITIS AND EMPHYSEMA

Cigarette smoking is the most important of the causes of chronic bronchitis in the United States, and increases the risk of dying from chronic bronchitis and emphysema. A relationship exists between cigarette smoking and emphysema but it has not been established that the relationship is causal. Studies demonstrate that fatalities from this disease are infrequent among nonsmokers.

For the bulk of the population of the United States, the relative importance of cigarette smoking as a cause of chronic bronchopulmonary disease is much greater than atmospheric pollution or occupational exposures.

CARDIOVASCULAR DISEASES

It is established that male cigarette smokers have a higher death rate from coronary artery disease than nonsmoking males. Although the causative role of cigarette smoking in

deaths from coronary disease is not proven, the Committee considers it more prudent from the public health viewpoint to assume that the established association has causative meaning than to suspend judgment until no uncertainty remains.

Although a causal relationship has not been established, higher mortality of cigarette smokers is associated with many other cardiovascular diseases, including miscellaneous circulatory diseases, other heart diseases, hypertensive heart disease, and general arteriosclerosis.

OTHER CANCER SITES

Pipe smoking appears to be causally related to lip cancer. Cigarette smoking is a significant factor in the causation of cancer of the larynx. The evidence supports the belief that an association exists between tobacco use and cancer of the esophagus, and between cigarette smoking and cancer of the urinary bladder in men, but the data are not adequate to decide whether these relationships are causal. Data on an association between smoking and cancer of the stomach are contradictory and incomplete.

The Advisory Committee was composed of 10 outstanding private physicians and scientists selected by the Surgeon General of the Public Health Service, with the concurrence of the cigarette industry.

While there remain a substantial number of individual physicians and scientists—the Commerce Committee received testimony from 39 of them—who do not believe that it has been demonstrated scientifically that smoking causes lung cancer or other diseases, no prominent medical or scientific body undertaking a systematic review of the evidence has reached conclusions opposed to those of the Surgeon General's Advisory Committee.

The Commerce Committee, therefore, concurs in the judgment that "appropriate remedial action" is warranted.

LABELING

More than 350,000 copies of the Surgeon General's Committee report have now been distributed. The Public Health Service has developed programs for public and professional smoking education and has established a national clearinghouse on smoking and health. Moreover, State and local health and education authorities, as well as the major voluntary health associations, have launched vigorous smoking education programs.

As a result, the Surgeon General was able to report on January 11 of this year that "nearly one out of four adult men has given up cigarettes." And that "if smoking habits had continued at the level of 3 years ago, there would be about 3½ million more smokers than there are today."

Nevertheless, the Committee is convinced that too many Americans, particularly teenagers, are unaware of the extent of the potential hazard in smoking and that these people will not be convinced until the Federal Government, upon which they have come to rely for cautionary labeling of hazardous substances, takes affirmative action which manifests its concern.

Moreover, while the Committee believes that the individual must safeguarded in his freedom of choice—that he has the right to choose to smoke or not to smoke—we believe equally that the individual has the right to know that smoking may be hazardous to his health.

Therefore the Committee is satisfied that the public interest requires the inclusion of a fair and factual cautionary statement on every cigarette package.

Such cautionary statement should be short and direct, and should not be weakened in its impact by any qualifying adjectives, such as “excessive,” “continual,” or “habitual.” To this end, the committee had concluded that the following factual and succinct statement should now be prescribed: “Caution: Cigarette smoking may be hazardous to your health.”

To secure the necessary prominence and conspicuousness of the warning on each package, S. 559 contains language patterned on the parallel provision of the Federal Hazardous Substances Labeling Act, requiring that the warning be located on the front or back, rather than on a side panel, of the cigarette package.

The second sentence of section 3 of the bill, as amended, thus reads:

“The foregoing statement shall be located on the front or back panel of every package, box, carton, or other container in which cigarettes are offered for sale, sold, or otherwise supplied to consumers and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

There was general agreement among the witnesses appearing before the Committee, whether or not they favored a warning requirement on cigarette packages, that if the Committee took any action in this field, such a requirement as to labeling should be uniform; otherwise, a multiplicity of State and local regulations pertaining to labeling of cigarette packages could create chaotic marketing conditions and consumer confusion. Thus, the Committee bill, by preempting the field, precludes any Federal, State, or local authority from requiring any statement other than that required by this bill relating to smoking and health on cigarette packages.

ADVERTISING

On June 22, 1964, the Federal Trade Commission issued its “Trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking.”

After an exhaustive examination of advertising, labeling, and other promotional practices in the cigarette industry, the Commission concluded that cigarette manufacturers should be required to make affirmative disclosure of the potential hazard from smoking in labeling and advertising. Thus, the Commission’s rule would have required that each cigarette package bear a warning statement by January 1, 1965.

If the warning on the package, together with such voluntary advertising reforms as the industry might have undertaken in the interim, had failed to change the circumstances which led to the Commission’s findings, the Commission’s rule would have then required, in addition, warnings in all cigarette advertising by July 1, 1965.

On September 3, 1964, pursuant to a request by the House Committee on Interstate and Foreign Commerce, the Commission amended its rule to extend the effective date for both packaging and advertising warnings to July 1, 1965. At the same time, the Commission again offered "to postpone the effective date or otherwise suspend, modify or abrogate the provisions of the rule as to advertising upon a showing of * * * change in circumstances * * *."

During the hearings, our Committee heard from the former Governor of New Jersey, Robert B. Meyner, testifying in his capacity of administrator of the voluntary Cigarette Advertising Code. Under the code, cigarette manufacturers are required to submit all of their advertising in advance of use to Governor Meyner who, acting in a judicial capacity, has the power to veto its use under the code. Governor Meyner testified that the code, which became effective on January 1, 1965, prohibits cigarette advertising in school and college publications, testimonials from athletes or other celebrities who might have a special appeal to youth and any advertising which makes unfounded representations with respect to health. Governor Meyner further testified that as a result of his enforcement of the code, the character of cigarette advertising has been altered since the period upon which the Trade Commission based its findings.

Considering the combined impact of voluntary limitations on advertising under the Cigarette Advertising Code, the extensive smoking education campaigns now underway, and the compulsory warning on the package which will be required under the provisions of this bill, it was the committee's unanimous judgment that no warning in cigarette advertising should be required pending the showing that these vigorous, but less drastic, steps have not adequately alerted the public to the potential hazard from smoking. The committee, therefore, adopted a new section 4 as follows:

SEC. 4. (a) No statement relating to smoking and health, other than the statement required by section 3 of this Act, shall be required on cigarette packages.

(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

(d) The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

(e) The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act.

The Federal Trade Commission retains its full authority, under section 5 of the Federal Trade Commission Act, to regulate unfair or deceptive acts or practices with respect to cigarette advertising but, under the bill, the Federal Trade Commission cannot for 3 years impose the affirmative requirement that cigarette advertising contain a warning.

The committee firmly believes that the Federal Trade Commission should regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which tends to negate the warning which must be placed on the package in accordance with the bill.

By expressly providing that "nothing in this act shall be construed to limit, restrict, expand, or otherwise affect" the authority of the Federal Trade Commission, section 4 makes it clear that its adoption in no way confirms or denies the Federal Trade Commission's holding that it has the general authority to issue trade regulation rules or to require affirmative warnings in appropriate cases.

As is the case in regard to labeling of cigarette packages, the committee bill preempts all Federal, State, and local authorities from requiring any further statement relating to smoking and health in the advertising of cigarettes properly labeled under the terms of the committee bill. Unlike the labeling provision, however, section 4(e) provides only a 3-year preemption as to advertising.

TAR AND NICOTINE

Several witnesses urged that cigarette manufacturers be required to state tar and nicotine yields on the package as originally provided by S. 559. Nevertheless the committee is satisfied, for the reasons discussed below, that such provision should not be retained in the bill.

The Chairman of the Federal Trade Commission expressed opposition at the hearing to a statute requiring tar and nicotine labeling.

With respect to nicotine, the report of the Surgeon General's Advisory Committee states that "there is no acceptable evidence that prolonged exposure to nicotine creates either dangerous functional change of an objective nature or degenerative disease." The report concludes that various studies "indicate that the chronic toxicity of nicotine in quantities absorbed from smoking and other methods of tobacco use is very low and probably does not represent a significant health problem."

As to tar, the Surgeon General testified before the committee that, "While it seems at least plausible that cigarettes with lower tar and nicotine may present lesser health hazards, there is presently no proof that this is so." He further stated that "further study" was necessary before he could recommend that particular ingredients be singled out for labeling.

ENFORCEMENT

The committee has determined that the proposed act should be enforced directly by the Department of Justice. This is the enforcement pattern utilized in analogous Federal legislation specifying the sizes and dimensions and labeling of various packages for specific commodities, such as those provided for standard barrels for fruits, vegetables, and other dry commodities, and size of the barrels (15 U.S.C. 231-235) as well as the various statutes controlling the labeling

of spiritous liquors (18 U.S.C. 1263). Section 5 of S. 559 follows the pattern of the Federal Hazardous Substances Labeling Act in making violation a misdemeanor directly enforced. Section 507 of title 28 of the United States Code specifies that it shall be the duty of each U.S. attorney, acting under the supervision of the Attorney General, directly to prosecute all offenses against the United States. A provision that violation shall be a misdemeanor would permit the prompt enforcement of the law by the filing of an information.

In addition to penal enforcement, the bill, again following the format of comparable previous enactments, provides for injunction against future violation, and the additional sanction of a punishment by criminal contempt for violation of such injunction.

A fine of \$100,000 for each violation is specified in the bill. That fine, however, is applicable only to those who manufacture, import, or package cigarettes for sale or distribution. In the committee's view, the primary responsibility for compliance should rest with this group, and the bill, therefore, does not authorize prosecution of wholesalers, distributors, and retailers unless they engage in manufacturing, importing, or packaging.

HEARINGS

The committee conducted extensive hearings from March 22, 1965, through April 5, 1965. It received the testimony of the Surgeon General and other representatives of the Department of Health, Education, and Welfare; the Chairman of the Federal Trade Commission; and many eminent medical, scientific, and other experts on all facets of the relation between smoking and disease; the economic importance of the tobacco industry both in tobacco-growing States and in all other areas of the country in which cigarettes are sold; the extent of cigarette advertising in the various media and the effect of requiring cautionary statements in advertising, the position of tobacco growers and cigarette manufacturers; and the probable psychological effect of various types of cautionary statements.

The committee has assembled and examined this voluminous transcript, as well as the large number of additional exhibits, and has compiled an appendix containing the introductory, summaries, and conclusions of the Surgeon General's committee report and a selection of 32 epidemiological, laboratory, and clinical studies from 13 countries.

COMMITTEE AMENDMENTS

In summary, the committee amendments discussed in detail above are as follows:

- (1) Removed the requirement that cigarette packages state the average tar and nicotine yields and the definition of "Cambridge filter method" as the method of measuring tar and nicotine yields;

- (2) Changed the wording of the warning from "Warning: Continual cigarette smoking may be hazardous to your health" to "Caution: Cigarette smoking may be hazardous to your health";

- (3) Clarified the position and prominence of the warning statement on the label; and

(4) Revised the preemption section as discussed under the heading "Advertising" above.

The committee also adopted technical amendments—

(1) To include Puerto Rico within the definition of the term "United States"; and

(2) To delete a superfluous United States Code citation.

COST

The committee does not anticipate that enforcement of this bill would require any increased appropriation for the Department of Justice and it expects that the costs of the Federal Trade Commission reports required by section 4 of the act can be met from regular appropriations.

AGENCY COMMENTS

Comments received from the interested agencies are as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 24, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 559, a bill to regulate the labeling of cigarettes, and for other purposes.

Under the provisions of this bill, cigarettes may not be manufactured, imported, or packaged for sale or distribution in the United States unless the package (1) is labeled "Warning: Continual cigarette smoking may be hazardous to your health," and (2) states the average tar and nicotine yields per cigarette as determined by the Cambridge filter method, or other method approved by the National Bureau of Standards.

If the Congress deems it appropriate to enact legislation requiring that a warning or cautionary statement appear on cigarette packages, the wording should be in keeping with the findings of the Surgeon General's Advisory Committee which reported a general relationship between smoking and health, but not an absolute relationship in every individual case.

The requirement of the proposed bill concerning labeling for tar and nicotine content is both impractical and misleading for a number of reasons. According to the Surgeon General's Advisory Committee on Smoking and Health, the absorption of nicotine from smoking does not constitute a significant health problem. The Committee concluded in its report on Smoking and Health that "the chronic toxicity of nicotine in quantities absorbed from smoking and other methods of tobacco use is very low and probably does not represent an important health hazard" (pp. 32 and 75).

A statement of tar yield per cigarette also is of doubtful value to consumers. Such a statement assumes a direct relationship between the total quantity of tar and degree of toxicity, whereas the problem is far more complex than this. Of greater significance than the total quantity of tar are the specific substances in tobacco smoke that may be harmful to health. At the present time, there is insufficient knowledge as to what specific factors create health hazards in ciga-

rettes. The Surgeon General's Advisory Committee concluded that "the amount of known carcinogens in cigarette smoke is too small to account for their carcinogenic activity" (Smoking and Health, p. 146). Dr. Luther L. Terry, Surgeon General, Public Health Service, Department of Health, Education, and Welfare, in his appearance before the Tobacco Subcommittee, House Committee on Agriculture, on January 29, 1964, stated:

"We need to know much more about the substances in tobacco smoke which produce the health hazards. Until we know more in this area, we will be handicapped in our efforts to remove the hazard. It is difficult to design a method of removing something if you don't know what it is. For example, the known substances in tobacco smoke can account for only a small portion of its cancer-producing power. We have no real clues as to what it is in tobacco smoke that influences coronary artery disease—if indeed it does."

In view of the uncertainties in the present state of knowledge, that part of the proposed labeling requirements which relates to tar and nicotine would not safeguard consumers. On the contrary, consumers could be misled.

The U.S. Department of Agriculture has stepped up its research to identify any constituents of tobacco smoke responsible for health problems and to find ways of reducing or eliminating them. This work is being coordinated with the Department of Health, Education, and Welfare. Until there is more explicit identification and a more complete understanding of the principal constituents which create health problems, legislation requiring the labeling for such constituents should not be enacted.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

CHARLES S. MURPHY, *Acting Secretary.*

DISTRICT OF COLUMBIA, *March 25, 1965.*

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Further reference is made to your letter dated January 26, 1965, enclosing a copy of S. 559, to regulate the labeling of cigarettes, and for other purposes.

The bill requires that a cigarette package bear the following statement: "Warning: Continual cigarette smoking may be hazardous to your health." The bill also requires that the average tar and nicotine yields per cigarette be placed on the cigarette package.

The Commissioners are informed that the Federal Trade Commission and other Federal agencies have given a great deal of study to the problem encompassed by the bill. The Commissioners feel that S. 547, 89th Congress, would be more effective in protecting the public health since it provides for regulation of advertising as well as labeling and in addition provides for enforcement by the Federal Trade Commission in cooperation with the Secretary of Health, Education, and Welfare. The Commissioners recommend the enactment of S. 547,

89th Congress, as modified by the Commissioners' suggestion in their report, in lieu of S. 559.

The Commissioners have been advised by the Bureau of the Budget that, from the standpoint of the administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

WALTER N. TOBRINER,
President, Board of Commissioners.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., March 31, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to your requests for the views of this Department with respect to S. 547, a bill to confer upon the Federal Trade Commission the power and duty to regulate the advertising and labeling of cigarettes, and S. 559, a bill to regulate the labeling of cigarettes, and for other purposes.

S. 547 would require the Federal Trade Commission, in cooperation with the Secretary of Health, Education, and Welfare, to establish standards for the labeling and advertising of cigarettes. The bill would require each cigarette advertisement and the label on each cigarette package to include the warning "Caution—Habitual Smoking Is Injurious to Health." The label on each cigarette package must also disclose the average yield of each "incriminated agent"—defined as substances in cigarette smoke determined by the Commission as tending to contribute to the medical hazards of smoking—to be found in the smoke of the cigarettes contained therein. The bill also provides for the elimination of all advertising matter which tends to make cigarette smoking attractive to children. The Commission would be empowered to enforce its standards and prevent false advertising under the Federal Trade Commission Act, as amended (15 U.S.C. 41 et seq.).

S. 559 would make it a criminal offense, subject on conviction to a maximum fine of \$100,000, for any person to manufacture, import, or package for sale or distribution within the United States or for shipment to U.S. military vessels, installations, or shore-based activities wherever located, any cigarettes the package of which (1) fails to bear the statement "Warning: Continual Cigarette Smoking May Be Hazardous to Your Health," or (2) fails to state the average tar and nicotine yields per cigarette as uniformly determined by the method prescribed therein.

The basic objective of both bills is the same—to protect the health of consumers and prospective consumers of cigarettes. Although the Department is in full sympathy with this objective, we question whether the enactment of either of these bills would be appropriate or desirable at this time.

The report of the Advisory Committee to the Surgeon General of the Public Health Service on smoking and health (issued January 11, 1964) made a number of detailed findings with respect to the health hazards of cigarettes and concluded that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appro-

appropriate remedial action." "Remedial action" was thereafter promptly initiated.

On February 25, 1964, the Surgeon General spoke of a "10-year plus" program he envisages: "We are aiming at a program of prevention—following the traditional and time-tested public health approach—a program aimed at preventing the habit before it is established. This means a program aimed at young people—teenagers and younger. This means a research program aimed at developing a safer cigarette and other safer forms of tobacco use." The Surgeon General also spoke of continuing research; cooperation with major voluntary health agencies and professional societies; conference plans of the Children's Bureau; a National Clearinghouse on Smoking and Health for public education purposes; and regulatory programs of other Federal agencies.

On April 27, 1964, the cigarette companies announced the Cigarette Advertising Code which prescribed voluntary standards to eliminate advertising and promotional activities in three general areas (1) tending to make cigarette smoking attractive to minors; (2) health representations; (3) representations as to the quantity of an ingredient to be found in the smoke of a cigarette, unless such representations are significant in terms of health and based on adequate, relevant, and valid scientific data, or the representations are accompanied by a satisfactory disclaimer as to the significance thereof in terms of health.

On June 22, 1964, the Federal Trade Commission, after extensive public hearings, issued a trade regulation rule that "it is an unfair or deceptive act or practice * * * to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton, or other container in which cigarettes are sold to the consuming public that *cigarette smoking is dangerous to health and may cause death from cancer and other diseases.*" [Emphasis supplied.] The effective date, as amended, of rule 1 of the FTC Trade Regulation Rule requiring inclusion of the prescribed warning statement relating to health hazards in both the advertising and labeling of cigarettes is July 1, 1965. However, it is significant that, because of the action by the cigarette industry voluntary to end undesirable advertising practices in the area of health claims and deceptive statements as to the quantity of cigarette smoke ingredients, the Commission determined that it would not adopt at that time the additional proposed rules 2 and 3 relating to such practices. However, the Commission stated that it "will maintain a close surveillance of the industry's efforts to eradicate, through voluntary efforts, all traces of unfairness and deception in affirmative representations or suggestions in advertising and labeling."

On January 11, 1965, marking the first anniversary of the issuance of the Advisory Committee Report on Smoking and Health, the Surgeon General, in an address presented at the Conference of the National Interagency Council on Smoking and Health, cited facts and figures supporting his statement that "measurable and encouraging progress has been made during the year." He further stated that "I doubt that any health message has ever reached so many in so short a time." Also, he commented on the extensive "research on the components of smoke and their physiological effects" being conducted by the National Institutes of Health, by the Department of Agriculture in close cooperation with the Public Health Service, by

universities and foundations, and "by the American Medical Association with financial help from the tobacco industry itself."

In the light of this background, while we strongly favor necessary or desirable legislation to protect the health and safety of the consuming public and to prevent deceptive or unfair labeling and advertising of consumer products, we are not convinced of a need for the proposed legislation at this time. We believe that the Congress in determining the need for legislation should consider the remedial actions already taken. Legislative action might properly await some indication of the effectiveness of the remedial action taken and proposed by the Federal Trade Commission and by the tobacco industry. We fully recognize that there is no assurance that this combination of action by the Commission and the industry will provide the public with suitable warnings and protection. Nevertheless, we feel it should be given a fair trial before legislation to accomplish these objectives is enacted.

Further, with specific reference to the provision in both S. 547 and S. 559 that there be shown on the label of each package of cigarettes the average yield of each "incriminated agent" or "tar and nicotine" to be found in the cigarette smoke, we invite attention to the indicated extensive research deemed necessary and currently being conducted in this field. We do not believe that it has been scientifically established that the reduction or elimination of tar, nicotine, or any other specific ingredient in cigarette smoke will significantly lessen the health hazards of cigarette smoking. Until there is more scientific identification and data on the ingredients in cigarette smoke which create the health hazard and on the extent to which these ingredients must be removed to be significant in terms of health, we fear that any showing of the yield of specified ingredients in cigarette smoke may provide a sense of false security and inadvertently mislead, rather than protect, consumers of cigarettes. Further, such a showing respecting nicotine, tars, or other components of cigarette smoke, which is unsubstantiated as significant in terms of health, has been regarded by the Federal Trade Commission as an unfair or deceptive trade practice and, in conformity therewith, is prohibited under the Cigarette Advertising Code of April 27, 1964.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES, *General Counsel.*

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 547, 89TH CONGRESS, A BILL TO CONFER UPON THE FEDERAL TRADE COMMISSION THE POWER AND DUTY TO REGULATE THE ADVERTISING AND LABELING OF CIGARETTES, AND ON S. 559, 89TH CONGRESS, A BILL TO REGULATE THE LABELING OF CIGARETTES

S. 547 directs the Federal Trade Commission, with the cooperation of the Secretary of Health, Education, and Welfare, to establish such standards and requirements for the labeling and advertising of cigarettes which are in commerce as it may deem necessary to protect the public health.

It further provides that such standards and requirements for the labeling of cigarettes shall include the requirement that each package or container in which cigarettes are offered for sale to consumers bear a clear and distinct label which (1) contains the specific wording: "Caution—Habitual Smoking Is Injurious to Health," and (2) sets forth the average yield, or other index, of each incriminated agent to be found in the smoke of cigarettes contained in such package or container.

With respect to advertising of cigarettes, S. 547 would require that (1) each advertisement contain the following warning: "Caution—Habitual Cigarette Smoking Is Injurious to Health," and (2) that the FTC provide for the elimination of all advertising which tends to make cigarette smoking attractive to children. The bill empowers and directs the FTC to take punitive measures against offenders.

S. 559 omits any reference to advertising and provides that it shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which (1) fails to bear the prominently located statement, "Warning: Continual Cigarette Smoking May Be Hazardous to Your Health," or (2) fails to state the average tar and nicotine yields per cigarette as determined by a defined Chambridge filter method or such other method approved by the National Bureau of Standards. The bill provides that no other warning requirement shall be imposed on cigarette labeling or packaging by any Federal, State, or local authority. Violations are punishable by a fine of not more than \$100,000. Enforcement would be in the district courts upon application of the Attorney General of the United States.

The Federal Trade Commission has, of course, taken action in this field. The Federal Trade Commission on June 22, 1964, adopted a rule¹ effective January 1, 1965, later amended² to become effective July 1, 1965, requiring that all cigarette packages and containers carry a warning to the effect that smoking is dangerous to health and may cause death from cancer and other diseases. The trade regulation rule also contains a requirement, effective July 1, 1965, covering a health warning in cigarette advertising.

The Federal Communications Commission's interest in this matter is necessarily limited to the use of broadcast media for cigarette advertising. It seems clearly appropriate, however, that the matter of cigarette advertising be treated on an all-inclusive, across-the-board basis, rather than in a piecemeal fashion. Since the Federal Trade Commission has undertaken to deal comprehensively with the remedial action needed to protect the public in the light of the report on smoking and health, issued January 11, 1964, by the Advisory Committee to the Surgeon General, the Federal Communications Commission has not held proceedings, or undertaken studies, to evaluate the various factors and considerations in this area. While we believe that some action on an overall basis is appropriate, we are thus not in a position to make recommendations to the Congress in this field, and specifically, as to whether S. 547 or S. 559 should be enacted.

¹ "Trade Regulation Rule for the Prevention of Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking and Accompanying Statement of Basis and Purpose of Rule" (29 F.R. 8324, July 2, 1964).

² 29 F.R. 15570, Nov. 20, 1964.

The Commission recognizes the importance of this matter. In exercising its public interest responsibilities in connection with broadcast licensees, it will, of course, cooperate in the application of whatever Federal law, policy, or regulations are adopted in this area.

(Adopted: Feb. 10, 1965.)

FEDERAL TRADE COMMISSION,
Washington, D.C., March 23, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your requests for the Commission's views on two bills dealing with the marketing of cigarettes in relation to the health hazards of smoking, S. 547, 89th Congress, 1st session, a bill to confer upon the Federal Trade Commission the power and duty to regulate the advertising and labeling of cigarettes, and S. 559, 89th Congress, 1st session, a bill to regulate the labeling of cigarettes, and for other purposes.

S. 547 recites that "the Congress hereby finds and declares that the unrestricted promotion and advertising of cigarettes in interstate commerce, in the light of the conclusive evidence that cigarette smoking is injurious to health, constitutes a grave threat to the public welfare," and provides that "the Federal Trade Commission, with the cooperation of the Secretary of Health, Education, and Welfare, shall establish such standards and requirements for the labeling and advertising of cigarettes which are in commerce as it may deem necessary to protect the public health."

With respect to the labeling of cigarettes, it is provided that such standards and requirements "shall include the requirement that each package or container in which cigarettes in commerce are offered for sale to consumers bear a clear and distinct label which (1) contains the following words: 'Caution—Habitual Smoking Is Injurious to Health'; and (2) sets forth the average yield, or other index, of each incriminated agent to be found in the smoke of the cigarettes contained in such package or container." The bill defines the term "incriminated agent" as "any substance found in cigarette smoke which, as determined by the Commission, tends to contribute to the medical hazards of smoking."

With respect to advertising, the bill provides that such standards and requirements shall "(1) provide that each cigarette advertisement contain the following warning: 'Caution—Habitual Cigarette Smoking Is Injurious to Health'; and (2) provide for the elimination of all advertising matter which tends to make cigarette smoking attractive to children." It is further provided that any cigarette package or container or cigarette advertisement which fails to comply with the standards and requirements established by the Commission shall be deemed a false advertisement within the meaning of sections 12 to 15 of the Federal Trade Commission Act.

S. 559 provides that "it shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which (1) fails to bear the following statement: 'Warning: Continual Cigarette Smoking May Be Hazardous to Your Health,' or (2) fails to state the average tar and nicotine yields per cigarette as determined by the Cambridge filter

method or such other method as may hereafter be approved for such purpose by the National Bureau of Standards." It further provides: "No other warning requirement shall be imposed on cigarette labeling or packaging by any Federal, State, or local authority." Criminal and injunctive sanctions are provided in the bill for failure to comply with its requirements.

The Federal Trade Commission has played a leading role in the initiation of remedial measures dealing with cigarette labeling and advertising in relation to the public health questions raised by cigarette smoking. On January 18, 1964, the Commission, pursuant to the Federal Trade Commission Act and to procedures set forth in the Administrative Procedure Act and the Commission's Procedures and Rules of Practice, initiated a proceeding for the promulgation of a trade regulation rule or rules for the prevention of unfair or deceptive acts or practices in the sale of cigarettes in relation to the health hazards of smoking, as found by the Advisory Committee to the Surgeon General of the U.S. Public Health Service in its "Report on Smoking and Health" (Jan. 11, 1964). After receiving extensive written data, views, and argument, and after holding public hearings, the Commission closed the record of the rulemaking proceeding on May 15, 1964. Thereafter, on June 22, 1964, the Commission, on the basis of findings made by it in the rulemaking proceeding and set forth in a comprehensive statement of basis and purpose of trade regulation rule, promulgated a trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking.

This rule expresses the Commission's determination, for the purpose of preventing future violations of law, of the requirements of the Federal Trade Commission Act as applied to the marketing of cigarettes in light of the health hazards of smoking. The rule provides that it is an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. § 45) to fail to disclose clearly and prominently in cigarette advertising and labeling that cigarette smoking is dangerous to health and may cause death from cancer and other diseases. Both the advertising and labeling requirements of the rule become effective on July 1, 1965.

The reasons justifying such a rule, as more fully explained in the statement of basis and purpose, are basically twofold. First, there is a consensus of medical and scientific opinion that cigarette smoking is a significant cause of certain grave diseases and contributes substantially to mortality from those diseases and to the overall death rate. These were the findings of the Surgeon General's blue-ribbon Advisory Committee on Smoking and Health. These findings are authoritative, reliable, and stand essentially unchallenged. They provide a compelling basis for prompt and effective governmental remedial action. Second, the Commission found that the methods by which cigarettes have been and are being sold to the consuming public—by means of labeling, and advertising, which fails to disclose the health hazards of cigarette smoking—are deceptive and unfair to consumers, especially children and teenagers, among whom cigarette smoking is very widespread, under settled legal principles governing truth and fairness in advertising.

The Commission, therefore, strongly believes that effective remedial measures with respect to current cigarette advertising and labeling are

necessary in the public interest, and supports legislation consistent with the objectives of its rule. We believe that both S. 547 and S. 559 are effective remedial measures; and we support both because either, if enacted, would contribute to the protection of the consuming public against unfair and deceptive cigarette labeling and advertising. We further think that it is desirable and in the public interest for Congress to enact such legislation since this would enable remedial action to become effective immediately.

With respect to cigarette advertising, the bills take slightly divergent approaches. S. 547, in requiring that every cigarette advertisement make affirmative disclosure of the dangers to health of smoking, would, if enacted, forbid cigarette advertising which fails to make such disclosure as unfair and deceptive. S. 559 does not, on its face, deal with cigarette advertising. The Commission would interpret this omission as no preemption of its existing authority under existing statutes to prevent, if necessary through a requirement of affirmative disclosure, unfair and deceptive cigarette advertising. It was, of course, pursuant to its existing general statutory authority that the Commission promulgated the trade regulation rule.

In support of the trade regulation rule the Commission found that cigarette advertising, not labeling, has been the principal sales method employed in the marketing of cigarettes to the American public. We feel, therefore, that the public interest will be served if the Commission is left free by the Congress to take action, within its existing authority, to prevent unfair or deceptive advertising acts or practices in commerce as may be necessary and appropriate in the public interest.

Accordingly, the Commission believes that any effective legislation in the field of smoking and health should be consistent with the trade regulation rule with respect to cigarette advertising, and that it should neither preclude nor preempt the Commission's authority under existing law with respect to cigarette advertising and thereby leave such advertising unregulated. Both S. 547 and S. 559 satisfactorily meet this requirement.

We would suggest for the consideration of the committee some changes in the wording of some of the provisions in the two bills.

The first concerns the required cautionary statement in S. 547. In our opinion, the required warning that habitual smoking "is injurious to health" overstates the medical and scientific evidence of the health hazards of smoking. While cigarette smoking is, on the basis of present knowledge, undoubtedly hazardous to health since smoking substantially increases a person's risk of injury or death from certain diseases, the evidence is less conclusive that cigarette smoking is in fact always injurious to the health of all who smoke. We would suggest that the present wording be changed to read that habitual cigarette smoking "is hazardous to health" or "is a substantial health hazard."

Along the same line, we believe the required cautionary statement in S. 559, that "continual cigarette smoking may be hazardous" to health, should be changed. Anything may be hazardous to one's health; cigarette smoking, however, has been shown to be, in fact, a substantial health hazard. In addition, the word "continual" (which is often understood as synonymous with "continuous") could be misleading in this context, since it could be misunderstood to imply that only the chain smoker runs any risk to his health from smoking.

The Surgeon General's Advisory Committee did not find that the hazards of smoking are confined to chain smokers or others who smoke with unusual frequency. We would suggest that the words "continual" and "may be" as used in S. 559 should be changed to "habitual" and "is," so that the cautionary statement would read that "habitual cigarette smoking is hazardous to health."

Section 4(f) of S. 547 specifies that for purposes of the disclosure requirements of the bill, it shall be the Federal Trade Commission's responsibility to determine which substances in cigarette smoke tend to contribute to the health hazards of smoking. The Commission, however, is not the best equipped among the Federal agencies to make technical evaluations of this kind. It would be more appropriate if responsibility for making such determinations were placed in the Surgeon General of the U.S. Public Health Service.

The Commission particularly endorses the inclusion in S. 547 of an express legislative finding that the unrestricted promotion and advertising of cigarettes is, in view of the health hazards of smoking, a threat to the public welfare. We would suggest that, should the committee prefer to endorse the enactment of S. 559 rather than S. 547, the former be amended to include such an express legislative finding. It is our opinion that this inclusion would be of considerable aid in interpreting and applying any law regulating the marketing of cigarettes to the consuming public.

By direction of the Commission, Commissioner MacIntyre not concurring for the reasons noted below.

PAUL RAND DIXON, *Chairman.*

COMMISSIONER MAC INTYRE'S STATEMENT OF REASONS FOR HIS NON-
CONCURRENCE WITH THE LETTER OF THE COMMISSION IN REPORTING
ON S. 547 AND S. 559, 89TH CONGRESS

The Federal Trade Commission has acted to suspend to July 1, 1965, the implementation of its trade regulation rule requiring warnings in both labeling and advertising of cigarettes. It did this in order that Congress might explore alternative measures to insure that the American public is not only fully and effectively, but appropriately, informed about smoking and disease. This was done at the request of responsible Members of Congress.

I have not concurred in the letter of the Commission on S. 547 and S. 559 because I fear that the erroneous inferences which may be drawn from the Commission's letter will put the Commission in the light of seeking to maintain or extend its power over public policy regardless of views held in Congress. It is one thing to report on proposed legislation and in that connection advise Congress what the Commission thinks particular legislative proposals will or will not do in making changes in the law; it is quite another thing to go further and propose to Congress that it should or should not act on legislative proposals. In those instances where Congress specifically requests proposals for legislation there is some warrant for making proposals. The request is absent here. Moreover, this is an instance where the Commission possibly is providing a basis for erroneous inferences that it is seeking to maintain or extend its power over public policy. I know that is not the Commission's objective, but I fear the Commis-

sion's letter will lead responsible persons to an erroneous conclusion on that point.

NOTE.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on February 10, 1965, and on March 23, 1965, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the administration's program.

JOSEPH W. SHEA, *Secretary.*

FEDERAL TRADE COMMISSION,
Washington, D.C., May 13, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of May 8, 1965, requesting the Commission's views on the amendments made by the Committee on Commerce to S. 559, 89th Congress, 1st session, a bill to regulate the labeling of cigarettes, and for other purposes.

As originally introduced, S. 559 contained a provision requiring the inclusion of a statement of the health hazards of cigarette smoking in all cigarette labeling but contained no provision with respect to the regulation of cigarette advertising. In its letter to you of March 23, 1965, the Commission expressed the view that S. 559 was an "effective remedial measure" which, "if enacted, would contribute to the protection of the consuming public against unfair and deceptive cigarette labeling and advertising," and urged "that it is desirable and in the public interest for Congress to enact such legislation since this would enable remedial action to become effective immediately." The letter also stated that "cigarette advertising, not labeling, has been the principal sales method employed in the marketing of cigarettes to the American public. We feel, therefore, that the public interest will be served if the Commission is left free by the Congress to take action, within its existing authority, to prevent unfair or deceptive advertising acts or practices in commerce as may be necessary and appropriate in the public interest."

The following are the principal amendments to S. 559 approved by the Committee on Commerce, and the Commission's comments thereon:

1. The required health statement has been changed to read: "Caution: Cigarette smoking may be hazardous to your health." We believe that deletion of the reference to "continual" cigarette smoking which appeared in the original draft of the bill is an improvement, but that the health statement would be more accurate if it read "is" instead of "may be."

2. The bill now provides that, for a 3-year period commencing on the effective date of the act, "No statement relating to smoking and health shall be required, by any Federal, State, or local authority, in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this act." This would supersede pro tanto the advertising provisions of the Commission's trade regulation rule on smoking and health, issued June 22, 1964. The Commission, in promulgating its trade regulation rule, recognized the appropriateness of allowing a reasonable period of time for com-

pliance with the requirement of a health warning in cigarette advertising, and granted the industry 1 year to comply with that requirement. In so providing, the Commission noted that changed circumstances—such as a warning statement in cigarette labeling, extensive efforts to educate the public in the hazards of cigarette smoking, and changes in the nature and content of cigarette advertising—might warrant suspension of the requirement that a warning statement appear in cigarette advertising as well as labeling.

We do not believe that a period as long as 3 years from the effective date of the act is necessary in order to determine whether changed circumstances, bearing upon the need for action in regard to cigarette advertising, have occurred or are likely to occur. There is no indication either that extensive efforts by the cigarette industry to educate the American public in the hazards of cigarette smoking are likely in the near future or that the industry will voluntarily effect substantial and significant changes in the nature, content, and scope of cigarette advertising. The Cigarette Advertising Code under which the industry has been operating for some months now has produced no material improvements in cigarette advertising. While we think that a health warning required by Congress and effective immediately with respect to cigarette labeling may have a salutary effect in eliminating unfairness and deception in the marketing of cigarettes, we adhere to the view that the efficacy of such a remedy and the need for any additional action can be determined within 6 months or 1 year after the labeling requirement becomes effective.

3. S. 559 has also been amended to include a new provision that the Federal Trade Commission, "with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than 18 months after the effective date of this act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate." The Commission supports this amendment to S. 559, which would require it to maintain scrutiny of cigarette advertising and promotion and to study the effectiveness of the warning statement in labeling required by the act, with a view toward advising the Congress as to what additional remedial measures with respect to the marketing of cigarettes may be appropriate and necessary for the protection of the public.

4. Finally, S. 559 provides that "Except as is otherwise provided [in the Act] * * * nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes." This provision expressly leaves undisturbed the Commission's authority under present law to stop such unfair or deceptive acts and practices in the advertising of cigarettes as may occur during the 3-year period in which the Commission is precluded from affirmatively requiring the inclusion of a statement relating to smoking and health in cigarette advertising.

The Commission's trade regulation rule lays down a broad affirmative requirement that a warning of the health hazards of smoking must be included in all cigarette advertisements, regardless of the nature and content of the advertisement. Even a bare institutional ad, stating only the name of the brand advertised, would be required

under the rule to contain a health warning. S. 559, if enacted in its amended form, would preclude, during the 3-year period, an across-the-board affirmative requirement applicable to any and all cigarette advertisements. But the bill would allow the Commission to apply its existing procedures and remedial authority to prohibit representations in cigarette advertisements which, under the standards of present law, are found to be unfair or deceptive.

By direction of the Commission.

PAUL RAND DIXON, *Chairman.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 1, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: In reply to your letter of January 25, 1965, inviting our comments on S. 559 entitled "A bill to regulate the labeling of cigarettes, and for other purposes," you are advised we have no comment to offer on the proposed legislation.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
March 22, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of January 18, 1965, for a report on S. 547, a bill to confer upon the Federal Trade Commission the power and duty to regulate the advertising and labeling of cigarettes, and your request of January 25, 1965, for a report on S. 559, a bill to regulate the labeling of cigarettes, and for other purposes.

S. 547 (the proposed Cigarette Advertising and Labeling Act) would vest in the Federal Trade Commission responsibility to establish standards for the labeling and advertising of cigarettes necessary to protect the public health; such standards would, under the bill, be established with the cooperation of this Department. These standards would include a requirement that each package or container of cigarettes bear a clear and distinct label containing the words, "Caution—Habitual Smoking Is Injurious to Health." Such label must further state the average yield, or other index, of each incriminated agent (defined as any substance found in cigarette smoke which, as determined by the Commission, tends to contribute to the medical hazard of smoking) in such cigarettes. Cigarette advertisements would be required to contain this warning: "Caution—Habitual Cigarette Smoking Is Injurious to Health," and the Commission's standards must "provide for the elimination of all advertising matter which tends to make cigarette smoking attractive to children." The bill would provide that any cigarette package or container or any advertisement of cigarettes which fails to comply with such

labeling and advertising standards shall be deemed a false advertisement of drugs for purposes of sections 12 to 15 (Wheeler-Lca amendment) of the Federal Trade Commission Act, and the Commission would have the enforcement authority with respect to any such false advertisement that it now has under the Federal Trade Commission Act with respect to false advertising of food, drugs, devices, and cosmetics.

S. 559 (the proposed Federal Cigarette Labeling Act) would make it unlawful to manufacture, import, or package cigarettes for sale or distribution within the United States or for shipment to U.S. military vessels, installations, or shore-based activities wherever located, unless the package is prominently and conspicuously labeled with the words "Warning: Continual Cigarette Smoking May Be Hazardous to Your Health," and with a statement of the average tar and nicotine yields per cigarette (as determined by the Cambridge filter method or any other method hereafter approved by the National Bureau of Standards). The bill further provides that no other warning requirement may be imposed on cigarette labeling or packaging by any Federal, State, or local authority. No regulatory agency would be charged with enforcement. Violation of the bill's provisions would be a misdemeanor punishable by a maximum fine of \$100,000, and the Federal district courts would, upon application of the Attorney General through the appropriate U.S. attorney, have jurisdiction to prevent and restrain violations of the bill. The bill would take effect 120 days after enactment.

The basic objectives of these bills—fair warning of health risks to the prospective consumer of cigarettes and, in the case of S. 547, elimination of cigarette advertising appealing to children—are objectives that this Department strongly supports.

The report of the Surgeon General's expert Advisory Committee on Smoking and Health concluded, on the basis of "prolonged study and evaluation of many lines of converging evidence," that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action" (p. 33), a conclusion with which we fully agree.

Some of the major findings and conclusions of the Advisory Committee on which this overall conclusion is based are as follows:

Cigarette smoking is associated with a 70-percent increase in the age-specific death rates of males.

In view of the continuing and mounting evidence from many sources, it is the judgment of the committee that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate.

In general, the greater the number of cigarettes smoked daily, the higher the death rate.

Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

Evaluation of the evidence leads to the judgment that cigarette smoking is a significant factor in the causation of laryngeal cancer in the male.

Cigarette smoking is the most important of the causes of chronic bronchitis in the United States and increases the risk of dying from chronic bronchitis.

A relationship exists between pulmonary emphysema and cigarette smoking but it has not been established that the relationship is causal. The smoking of cigarettes is also associated with an increased risk of dying from pulmonary emphysema.

Male cigarette smokers have a higher death rate from coronary artery disease than nonsmoking males. Although the causative role of cigarette smoking in deaths from coronary disease is not proven, the committee considers it more prudent from the public-health viewpoint to assume that the established association has causal meaning than to suspend judgment until no uncertainty remains.

Epidemiological studies indicate an association between cigarette smoking and peptic ulcer which is greater for gastric than than for duodenal ulcer.

The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined.

The Advisory Committee's report was made public on January 11 of last year. After review of the report by the Surgeon General from a scientific and technical standpoint, the Public Health Service announced its "full acceptance of the principal findings and conclusions of the report." This Department has accepted and adopted the Advisory Committee's report and findings.

The Department, as the major Federal agency charged with the protection of the public health and as the administrator of the Food, Drug, and Cosmetic Act, the Federal Hazardous Substances Labeling Act, and other consumer protection legislation, believes that labeling and advertising should, in general, serve not only as a medium of identification and market promotion of a product but should, in the interest of honesty and fair dealing, neither mislead nor fail to give the consumer the information concerning the product that he needs in order to make an informed decision. This is especially so where the product has a potential for harm, and all the more so where children and young people are involved.

We do not share the view of those who assume that, since the health risks of smoking have been widely publicized, no useful function would be served by including an appropriate reminder of those risks in information to the consumer. We believe, rather, that not only specific warnings, but also other requirements to prevent misleading statements or omissions in such promotional material, would help to round out our efforts by way of public information and education to impress upon the public the hazards of smoking. This is particularly true in view of the fact—a fact especially significant for young people—that, as stated in the Advisory Committee's report, the "overwhelming evidence indicates that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined." As said by the Federal Trade Commission in giving notice of proposed trade regulation rules for the advertising and labeling of cigarettes, "the Commission has reason to believe that much current advertising suggests or portrays cigarette smoking as being pleasurable or desirable; compatible with physical health, fitness, or well-being; or indispensable to full personal development and social success, without at the same time reminding the consumer of the serious health hazard of cigarette smoking.

Such advertising may create a psychological and social barrier to the consuming public's understanding and appreciation of the gravity of the risks to life and health involved in cigarette smoking."

We are encouraged by, and welcome, the current effort of the industry at self-regulation, as evidenced in the cigarette advertising code agreed upon by the cigarette manufacturers, which also covers labeling and which includes not only a statement of standards but provisions for clearance with an independent code administrator by members of the voluntary system, and for pecuniary sanctions and publicity by the administrator against violators of the code. We believe that an adequate voluntary program might offer a reasonable solution to advertising problems, and we support efforts in this direction. We note, however, that the proposed code, though progressive in a number of ways, stops short of requiring an affirmative health risk warning.

We believe that regulation, whether voluntary or statutory, should extend both to labeling—i.e., any written, printed, or graphic matter upon or accompanying the consumer package and carton—and to advertising (other than labeling) in its various forms. With respect to labeling, we believe, for the reasons stated below, that legislation should be enacted to regulate the labeling of cigarettes, and that, preferably, this should be done by way of appropriate amendments to the Federal Hazardous Substances Labeling Act.

The determination of the appropriate agencies to be charged with regulation in this field presents a difficult question. Without questioning in any way the conclusion of the Federal Trade Commission that the failure to include an appropriate health risk warning, or the inclusion of certain claims, in cigarette labeling or advertising constitutes an unlawful trade practice under the Federal Trade Commission Act, it seems clear that the objective here involved is the protection of the public health. If this objective and this Department's special competence in the health field were to be alone determinative of the place where the regulatory authority to accomplish the objective should rest, it would seem to follow that the authority should be reposed in this Department. At the same time we are conscious of the fact that under the Wheeler-Lea amendment to the Federal Trade Commission Act the FTC has special enforcement responsibility, tools, and experience with respect to false or misleading advertisements of food, drugs, and cosmetics, though with respect to advertisements of prescription drugs important regulatory responsibility was cast upon us by the 1962 Amendments to the Food, Drug, and Cosmetic Act. With respect to labeling regulations, however, there is no such parallel under the Federal Trade Commission Act. On the other hand, the type of regulatory approach, and the inspection, seizure, and other enforcement provisions of the Food, Drug, and Cosmetic Act and of the more recently enacted Federal Hazardous Substances Labeling Act, and the staff and experience built up in the administration of these acts, argue compellingly, in our view, for vesting responsibility for labeling regulation of cigarettes in this Department.

On balance, therefore, it seems to us that responsibility for labeling regulation of cigarettes should be vested in this Department, preferably by way of appropriate amendment of the Federal Hazardous Substances Labeling Act, and that regulation of cigarette advertising, to the extent necessary, should be vested in the FTC.

While, in view of the evidence marshaled in the Advisory Committee's report, it could well be argued that cigarettes are "hazardous substances" as defined in the Federal Hazardous Substances Labeling Act, amendment of that act is desirable to avoid controversy on this point and to adapt the labeling requirements, etc., to the agreed objective. Such legislation should not, we believe, spell out in the law specific kinds of ingredients that must be declared on the label, but should leave this matter to administrative regulation.

It should be emphasized in connection with the above-stated proposal that coordination between actual administration of the Food, Drug, and Cosmetic Act and that of the Wheeler-Lea amendment has been achieved without difficulty under a working agreement between the two agencies.

The considerations arguing for appropriate regulation in this field are, moreover, sufficiently compelling to make it likely that in the absence of Federal regulation the States or municipalities, or a number of them, would attempt to fill the void. With respect to advertising, such attempts would largely be abortive because of the territorial limits to State authority, the nature of some of the advertising media, and the exclusivity of Federal control over radio and television communication. But with respect to labels and labeling such efforts could be more effective, with results that, because of the diversity of regulation likely to occur, would tend to burden the industry far more severely than Federal regulation would be likely to do. In the case of a product, such as cigarettes, which is shipped by the manufacturer into every State by the millions of packages, uniformity of labeling requirements would seem to be of the essence. It is, no doubt, because of such considerations that S. 559 (sec. 5) provides that no warning requirement (other than provided for by the bill) shall be imposed by Federal, State, or local authorities as to cigarette labeling or packaging.

In view of the above-mentioned considerations, we have several recommendations concerning the provisions of S. 559 and S. 547.

Both bills provide for statutory health risk warnings. It seems preferable, from the standpoint of flexibility in the light of advancing knowledge, to leave formulation of the precise warning required to administrative regulation. Even if the precise warning were to be stated in the statute, policing by a regulatory agency would seem to be desirable. To that end, bringing such labeling regulation under the Federal Hazardous Substances Labeling Act would in our view be appropriate. As already pointed out, the type of regulatory approach embodied in the Federal Hazardous Substances Labeling Act (which in addition to injunctive and criminal provisions includes factory inspection and seizure provisions) and the staff and experience built up in its administration by the Food and Drug Administration to which the Secretary's authority under that act has been delegated, are especially well adapted to the enforcement of labeling regulation of mass-produced products and would not be available under this bill. We therefore suggest that the Federal Hazardous Substances Labeling Act be amended to authorize us, on the basis of the current state of knowledge at any given time, to formulate by regulation an appropriate warning. Should the situation change; e.g., should research or technical improvements in the course of time develop a cigarette that would justify a reduced warning or perhaps even its omission,

either for all cigarettes or those meeting particular specifications—the regulation would be modified accordingly.

We assume that it is intended—but it may be desirable to make it explicit in the Federal Hazardous Substances Labeling Act not only for cigarettes but for substances otherwise covered by it—that if the required warning is in effect negated or disclaimed on the label or in accompanying literature by words, statements, designs, or other graphic material, the warning requirement shall be deemed not to have been met. (See 21 C.F.R. § 191.102.) However, in view of the subtle gradations possible in this respect, we would suggest that the committee also consider the desirability of including specific authority to prohibit or regulate the use of statements that, while not clearly negating the warning and while literally true or at least not demonstrably false, may give the consumer the misleading impression that a given cigarette is safer than others.

As stated at the outset, S. 547 would require that packages of cigarettes set forth on the label the average yield, or other index, of each “incriminated agent” found in the smoke of the cigarette; and S. 559 would require that the average tar and nicotine yields be stated on the label according to the Cambridge filter method or such other method as the National Bureau of Standards may approve. We are concerned that such requirements might, especially in a competitive context where the public may be more highly conscious that there is danger in smoking, be utilized by cigarette manufacturers in such a way (for example, as part of a larger advertising campaign) that many persons would be misled to believe that cigarettes (or a particular brand) are being made safer than they actually are, even if no statement as to the nicotine or tar content were actually untrue. While this requirement would only apply to labeling under these bills, we are mindful of the so-called tar derby that led to the 1960 agreement of leading cigarette manufacturers (obtained by the Federal Trade Commission) to discontinue the confusing practices of the industry in this connection. It would be unfortunate if such competition were resumed, stimulated by a labeling requirement of the kind proposed in these bills. On the other hand, it is a reasonable assumption that a reduction in the tar and nicotine content would to some extent reduce the likelihood that smoking will result in adverse health effects, especially cancer.

It would seem to us, on balance, that the best course would be to authorize, but not direct, this Department, under the Federal Hazardous Substances Labeling Act, to require that labeling of cigarettes packages and containers offered for sale to consumers include a statement of the average yield or other index of incriminated agents found in the smoke of cigarettes contained in such package or container, if the Secretary determines that an index, based on a particular method which he specifies, can communicate information on the basis of which the consumer can make meaningful choices. We would recommend that the Secretary also have flexible authority with respect to which particular incriminated agents (or, in the case of tar, for example, what composite of agents) shall be required to be stated in the labeling and to require manufacturers to let us have and verify any information they have as to ingredients (including additives) in the tobacco used by them or in smoke from such tobacco.

S. 547 would require the Federal Trade Commission to establish standards which provide for the elimination of all advertising matter

which tends to make cigarette smoking attractive to children. We wholeheartedly support the aim of this requirement and defer to the Federal Trade Commission as to the most appropriate means of accomplishing it.

In conclusion, then, we favor enactment of legislation along the lines above suggested.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ANTHONY J. CELEBREZZE, *Secretary*.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 9, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on the bills S. 547, to confer upon the Federal Trade Commission the power and duty to regulate the advertising and labeling of cigarettes, and S. 559, to regulate the labeling of cigarettes, and for other purposes.

The bill S. 547 would vest authority in the Federal Trade Commission in cooperation with the Secretary of Health, Education, and Welfare to establish standards and requirements for the labeling and advertising of cigarettes as it deems necessary to protect the public health. The bill specifies certain standards which are deemed necessary apart from any other the Commission may establish. Provision is made with respect to enforcement that failure to comply with the Commission standards shall be deemed to be a false advertisement of drugs for the purposes of sections 12, 13, 14, and 15 of the Federal Trade Commission Act, as amended (38 Stat. 719; 15 U.S.C. 52, 53, 54, and 55).

The bill S. 559 would make it unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which (1) fails to bear the following statement: "Warning: Continual Cigarette Smoking May Be Hazardous to Your Health," or (2) fails to state the average tar and nicotine yields per cigarette as determined by the Cambridge filter method or such other method as may hereafter be approved for such purpose by the National Bureau of Standards. It provides that no other warning requirement shall be imposed on cigarette labeling or packaging by any Federal, State, or local authority. Violations of the provisions of the bill would be a misdemeanor punishable by a fine of not more than \$100,000.

Inasmuch as these measures involve considerations of primary concern to the Federal Trade Commission and the Department of Health, Education, and Welfare, the Department of Justice defers to the views of those agencies with respect to legislation in this field.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

NATIONAL SCIENCE FOUNDATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., March 23, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your requests of January 18 and January 25, 1965, for the comments of the National Science Foundation on S. 547 and S. 559. S. 547 is concerned with regulating the advertising and labeling of cigarettes, while S. 559 pertains to labeling only.

We do not feel that the matters with which S. 547 and S. 559 are concerned are sufficiently related to the responsibilities of the National Science Foundation as to make it appropriate for the Foundation to offer comments on the bills.

The Bureau of the Budget has advised us it has no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

LELAND J. HAWORTH, *Director.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., March 23, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 559, to regulate the labeling of cigarettes, and for other purposes.

The proposed legislation would make it unlawful to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which does not bear a warning of the possible health hazards involved in smoking, or fails to state the average tar and nicotine yields per cigarette as determined by specified approved methods for the cigarettes packaged.

The Bureau of Customs of this Department would be concerned with inspecting imported cigarettes for the presence of the required warning. The Department assumes that the proposed legislation is intended to cover cigarettes imported for commercial purposes. In that case, the Department anticipates no unusual administrative difficulties in carrying out its responsibility. If, however, the proposed legislation is intended to apply to cigarettes imported as passengers' baggage for the personal use of the importer, administration of the law would involve difficulties since it would expand the customs activities in connection with the already onerous task of examining

articles brought into the United States by passengers, particularly tourists.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
Acting General Counsel.

CHANGES IN EXISTING LAW

With the exception, of the effect of section 4, as amended, upon the organic act of the Federal Trade Commission, discussed above, the bill makes no changes in existing law.

SUPPLEMENTARY VIEWS OF MRS. NEUBERGER

I wish to make it clear at the outset that I support S. 559, believing that the health hazards posed by cigarette smoking necessitate a positive legislative response by Congress. However, I also believe that the health of the American people will be better served if the bill is strengthened by further amendment. The reasons for these proposed changes are set forth in the following supplementary views.

PURPOSE AND FINDINGS

After extensive public hearings, the Commerce Committee determined that the Surgeon General's Advisory Committee on Smoking and Health was correct when it declared that, "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action," and that "Cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate."

In other words, Americans are dying prematurely and are unnecessarily disease ridden because of cigarette smoking.

There are only two obvious courses of action which Congress can take, commensurate with our heritage of freedoms of choice and speech, once it has accepted these findings: (1) to discourage the consumption of cigarettes among smokers, and in such a way that those who are nonsmokers, such as children, will not wish to acquire the habit; (2) to stimulate research into the technology of safer smoking.

Any legislation ought to reflect these proposals in its statement of purpose. The declared purpose of S. 559—to warn the public of the hazards of smoking—is really the means to an end. The impact on the public of the legislation would be greater if what Congress really wants to do—decrease cigarette consumption—was specifically spelled out. It is unfortunate, therefore, that a discussion of consumption is not to be found in the report.

It must be remembered that even the most moderate smoking is hazardous to health, not merely excessive use. The importance of reducing cigarette consumption is demonstrated in the numerous studies which have shown that persons who stop smoking cigarettes experience, within 5 years, a reduction of over 50 percent in the risk of developing lung cancer. Dr. Joseph T. Doyle and his associates have shown that whereas moderate to heavy cigarette smokers observed over an 8- to 10-year period experience three times as many attacks of coronary artery disease, persons who had stopped smoking had no greater incidence of heart attacks than did nonsmokers, indicating that there is a definite preventive effect in stopping smoking.

LABELING

I fully concur with the report that the American people will not be convinced of the health hazards of smoking until the Federal Government takes affirmative action which manifests its concern. One affirmative action which serves the public interest is a warning statement on each cigarette package.

The language which was adopted is "Caution: Cigarette smoking may be hazardous to your health." The justification in the report for this particular choice of words reads: "Such cautionary statement should be short and direct, and should not be weakened in its impact by any qualifying adjectives, such as 'excessive,' 'continual,' or 'habitual.'" Why the same stricture does not apply to qualifying verbs, such as "may be," is not made clear. It would seem that a cautionary statement consistent with fact and brevity might better read: "Caution: Cigarette smoking is hazardous to health." I recommend that section 3 of S. 559 be amended to include this language.

The warning statement on the cigarette package is welcome because it demonstrates official recognition of the health problem facing our Nation, but it does not make a direct contribution to the main purpose of the legislation. The value of a warning statement is dependent on the response to it. The hearings demonstrate that the warning statement on the package is not anticipated to act as a deterrent. Not one member of the committee who spoke on the issue during the public hearings, nor any witness before the committee, appeared to believe that the inclusion of a warning statement on the package would have any or more than minimal effect on cigarette consumption. One obvious reason for this is that the cigarettes are already in hand and paid for by the time the warning is read.

ADVERTISING

The committee did have an opportunity before it to aim a direct shaft at the one phenomena that probably contributes as much or more than any other to the continued high consumption of cigarettes: advertising. Unless Congress specifically denies the Federal Trade Commission the authority to act, the Commission's "Trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking" goes into effect this year.

However, section 3 of S. 559 substitutes the committee's label warning for the FTC rule on labeling. And section 4 (b) and (e) imposes a moratorium on health hazard statements in cigarette advertising for a period of 3 years. Some further discussion of this committee action is necessary.

MORATORIUM

The moratorium on any Federal, State, or local action in the field of warning statements in cigarette advertising is justified in the report on the grounds that the Cigarette Advertising Code, the cigarette hazard educational campaigns of the Public Health Service and the various States, and the warning statement on the package should first have a chance to be evaluated for their effectiveness.

The committee report mentions the "impact of voluntary limitations on advertising," in reference to the Cigarette Advertising Code. What is the nature of these limitations? We have observed no limitations of financial outlay for cigarette advertising. In fact, spot TV expenditures by the cigarette industry more than doubled in 1964 over 1963. We have observed no limitation (nor could we expect to) on the central theme of their advertising, which is: "Smoke cigarettes." The subsidiary themes are still that flavor, fun, pleasure, and aroma are found in smoking cigarettes.

The FTC, in a letter to Chairman Magnuson on May 13 in response to his request for the views of the Commission on the amended bill, said: "The Cigarette Advertising Code under which the industry has been operating for some months now has produced no material improvements in cigarette advertising." This judgment is from the agency required to monitor all advertising for adherence to its general advertising regulations.

The committee report appears to lay great emphasis on the smoking education campaigns of the Public Health Service, State and local authorities, and voluntary health associations. The report uses the words "extensive" and "vigorous" to describe these programs, which may be accurate, but the word "effective" was advisedly not used. Only six States have statutes requiring the teaching of the effects of tobacco, although many States interpret the teaching about tobacco in statutes dealing with narcotic education. These educational programs are crying for funds and trained personnel.

We do not even know what the best techniques are for teaching or publicizing of the health hazards of cigarettes, although we do know that what has been tried by the States in the past is demonstrably inadequate. The committee heard no testimony that our present understanding of smoking behavior and psychology is such that the educational campaigns mentioned in the committee report would be able to compete successfully with the \$200 million a year promotional advertising campaign of the cigarette industry. We may be forgiven for thinking in skeptical terms when it is noted that Congress is considering a \$10 million appropriation to the Public Health Service for a 3-year educational and informational program on the health hazards of smoking, and the R. J. Reynolds Tobacco Co. spent three times that last year alone on just network TV advertising to accomplish the opposite.

The Congress is being advised, therefore, to impose a 3-year moratorium on any Federal, State, or local requirements of warning statements in cigarette advertising in order to allow time for evaluating the effectiveness of a health hazard label on the cigarette package that all admit will not affect consumption, the educational campaigns which are well intentioned but poor, ill-equipped and understaffed, and the Cigarette Advertising Code which the FTC characterizes as having "produced no material improvements in cigarette advertising."

There seems no doubt in anyone's mind that the most effective action Congress could take to reduce consumption would be to require a health hazard statement in advertising. The complete lack of enthusiasm of the cigarette industry to this suggestion confirms the impression. In light of this, and the above, a 3-year moratorium has little rationale to commend it.

The FTC concurs in this hesitancy to accept the merits of 3 years. In the letter of May 13 referred to earlier, the Commission states:

We do not believe that a period as long as 3 years from the effective date of the act is necessary in order to determine whether changed circumstances, bearing upon the need for action in regard to cigarette advertising, have occurred or are likely to occur. There is no indication either that extensive efforts by the cigarette industry to educate the American public in the hazards of cigarette smoking are likely in the near future or that the industry will voluntarily effect substantial and significant changes in the nature, content, and scope of cigarette advertising. * * * While we think that a health warning required by Congress and effective immediately with respect to cigarette labeling may have a salutary effect in eliminating unfairness and deception in the marketing of cigarettes, we adhere to the view that the efficacy of such a remedy and the need for any additional action can be determined within 6 months or 1 year after the labeling requirement becomes effective.

In legislation as vital as human health, a 1-year moratorium appears ample and I therefore recommend that section 4(e) be amended to read: "The provisions of subsection (b) shall be effective only for the 1-year period beginning on the effective date of this Act."

To those who would claim that 1 year is not long enough, I can only remind them that while Congress can impose a moratorium on warning statements in advertising, there will be no parallel moratorium on the deaths and disease caused by smoking.

PREEMPTION

Section 4(a) preempts for the Federal Government the field of health hazard labeling of cigarette packages on the understandable grounds that the Federal labeling requirement ought to serve as the uniform standard across the Nation. The justification for the Federal preemption of health hazard warnings in cigarette advertising, as found in section 4(b) is not obvious at all.

Section 4(b) puts the Federal Government in the position of saying that cigarette smoking constitutes a serious health hazard, but that the traditional guardians of public health, the State and local authorities, cannot act to protect their citizens by requiring a health hazard warning in television and radio advertising emanating from their domains. It is one thing to favor Federal preemption in an area where Congress takes action, such as the proposed cigarette labeling provision. It is quite another when Congress refuses to act at all. The fact that the majority of the Commerce Committee did not wish at this time to recommend a cigarette advertising warning seems slender grounds for imposing that judgment on all other legislative and health authorities in the United States.

I recommend that section 4(b) be amended to read: "No statement relating to smoking and health shall be required by the Federal Trade Commission in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this act."

TOBACCO COMPONENTS AND ADDITIVES

The report details the reasons why it was thought inadvisable to retain the section in the original version of S. 559 dealing with tars and nicotine. Unfortunately, the report does not record the alternative recommendation proposed by the Surgeon General in his testimony to the committee during the public hearings. The Surgeon General recommended that, instead of setting forth in the statute particular components of tobacco smoke that must be disclosed on the label and the method of determining such components quantitatively (for example, the Cambridge method), regulatory authority be provided to decide which particular components of cigarette smoke should be disclosed on the label. It was suggested that this authority should also extend to the analytical methods to be used, and the manner in which the information is presented to the consumer. It was further suggested that the regulatory agency be authorized to require the manufacturers of cigarettes to provide the agency with information as to the ingredients—including additives—of cigarette tobacco.

I would hope that the bill would be amended to include these recommendations, as they are in the spirit of the original provision which was found technically inexact.

MAURINE B. NEUBERGER.

SUPPLEMENTAL VIEWS OF MR. HART

I must confess a certain skepticism about the effectiveness of any formal warning repeated on every label or in every advertisement. This may have a limited usefulness but will not do much to help the buyer make a meaningful judgment.

What is needed—and it need appear only on the label—is quantitative information showing the content in the cigarette of those elements scientifically shown to be associated with cancer and other diseases.

The legislation, therefore, should include provision that when one or more harmful ingredients have been scientifically identified to the satisfaction of the Surgeon General, quantitative information concerning such ingredients shall be included as part of the warning label.

PHILIP A. HART.

S. 559

[Report No. 195]

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1965

Mr. MAGNUSON (for himself, Mr. BENNETT, Mr. CLARK, and Mr. MOSS) introduced the following bill; which was read twice and referred to the Committee on Commerce

MAY 19, 1965

Reported by Mr. MAGNUSON, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To regulate the labeling of cigarettes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Federal Cigarette Label-
4 ing Act”.

DEFINITIONS

6 SEC. 2. As used in this Act—

7 (a) The term “cigarette” means any roll of tobacco,
S wrapped in paper or any substance other than tobacco.

(b) The term “package” means a package, box, carton or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(c) The term "person" means any individual, partnership, corporation, or any other business or legal entity.

(d) The term "sale or distribution" includes sampling and means of distribution other than sales.

~~(e) The term "Cambridge Filter Method" is that method of measuring tar and nicotine yields presented at the seventy-seventh annual meeting of the Association of Official Agricultural Chemists, on October 16, 1963, at Washington, District of Columbia.~~

~~(f)~~ (e) The term "United States" means the several States, the District of Columbia, and possessions of the United States *States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.*

LABELING

SEC. 3. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which ~~(1)~~ fails to bear the following statement:

~~"Warning: Continual~~ *"Caution: Cigarette Smoking May Be Hazardous to Your Health."*

~~or (2)~~ fails to state the average tar and nicotine yields per cigarette as determined by the Cambridge Filter Method or such other method as may hereafter be approved for such purpose by the National Bureau of Standards. The foregoing

1 statements shall be located prominently on the package in
2 conspicuous and legible type in contrast by typography,
3 layout, or color with other printed matter on the package
4 statement shall be located on the front or back panel of every
5 package, box, carton or other container in which cigarettes are
6 offered for sale, sold, or otherwise supplied to consumers and
7 shall appear in conspicuous and legible type in contrast by
8 typography, layout, or color with other printed matter on
9 the package.

10 PREEMPTION

11 ~~SEC. 4. No other warning requirement shall be imposed~~
12 ~~on cigarette labeling or packaging by any Federal, State, or~~
13 ~~local authority.~~

14 *SEC. 4. (a) No statement relating to smoking and*
15 *health, other than the statement required by section 3 of this*
16 *Act, shall be required on cigarette packages.*

17 *(b) No statement relating to smoking and health shall*
18 *be required in the advertising of any cigarettes the packages*
19 *of which are labeled in conformity with the provisions of*
20 *this Act.*

21 *(c) Except as is otherwise provided in subsections (a)*
22 *and (b), nothing in this Act shall be construed to limit, re-*
23 *strict, expand, or otherwise affect, the authority of the Federal*
24 *Trade Commission with respect to unfair or deceptive acts*
25 *or practices in the advertising of cigarettes.*

(d) *The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.*

(e) *The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act.*

CRIMINAL PENALTY

SEC. 5. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$100,000.

INJUNCTION PROCEEDINGS

SEC. 6. The several district courts of the United States are invested with jurisdiction, for cause shown, and subject to the provisions of section 381 (relating to notice to the opposite party) of title 28, United States Code, to prevent and restrain violations of this Act upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 7. Cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemption shall not apply to cigarettes manufactured, imported, or packaged for shipment to United States military vessels, installations, or shore-based activities wherever such vessels, installations, or activities may be located.

SEPARABILITY

SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 9. This Act shall take effect one hundred and twenty days after the date of its enactment.

89TH CONGRESS
1ST SESSION

S. 559

[Report No. 195]

A BILL

To regulate the labeling of cigarettes, and for
other purposes.

By Mr. MAGNUSON, Mr. BENNETT, Mr. CLARK,
and Mr. Moss

JANUARY 15, 1965
Read twice and referred to the Committee on
Commerce

MAY 19, 1965
Reported with amendments

May 27, 1965

HOUSE

13. LANDS. The Interior and Insular Affairs Committee reported with amendment H. R. 903, to add certain lands to the Kings Canyon National Park, Calif. (H. Rept. 384). p. 11576
14. APPROPRIATIONS. The Appropriations Committee reported H. R. 8639 (H. Rept. 427) the Departments of State, Justice, and Commerce, the Judiciary, and related agencies appropriation bill, 1966. p. 11576
15. POVERTY. The Education and Labor Committee reported without amendment H. R. 8283, to expand the war on poverty and enhance the effectiveness of programs under the Economic Opportunity Act (H. Rept. 428). p. 11576
16. CLAIMS. The Judiciary Committee reported with amendment H. R. 5024, to amend titles 10 and 14, U.S.C. and the Military Personnel and Civilian Employees' Claims Act of 1964, with respect to the settlement of claims against the U. S. by members of the uniformed services and civilian officers and employees of the U. S. for damage to, or loss of, personal property incident to their service (H. Rept. 382). p. 11576
17. WATER RESOURCES. Conferees were appointed on S. 1229, to provide uniform policies with respect to recreation and fish and wildlife benefits and costs in connection with Federal water resource projects of the Corps of Engineers and the Bureau of Reclamation (p. 11532). Senate conferees have already been appointed.
18. CIGARETTE LABELING. The "Daily Digest" states that the Interstate and Foreign Commerce Committee voted to report with amendment (but did not actually report) H. R. 3014, to regulate the labeling and advertising of cigarettes. p. D456
19. FISH AND WILDLIFE. A subcommittee of the Merchant Marine and Fisheries Committee voted to report to the full committee H. R. 4227, to extend the term during which the Secretary of the Interior is authorized to make fisheries loans under the Fish and Wildlife Act of 1956; and H. R. 505, to increase the amount authorized to be appropriated annually to carry out the program for the conservation and restoration of the Hawaiian Nene goose, and to extend such program for an additional five years. p. D457
20. TARIFF; TAXATION. The "Daily Digest" states that the Ways and Means Committee voted to report (but did not actually report) H. R. 5768 to continue through June 30, 1966, the suspension of duties on certain classifications of yarn of silk; and H. R. 7502 (amended), relating to the income tax treatment of certain casualty losses attributable to major disasters; and H. R. 4493 (amended) to continue existing suspension of duties on metal scrap. p. D457
21. FOOD STAMP PROGRAM. Rep. Dulski commended the restoration of \$100,000,000 in the agricultural appropriations for the food stamp program. p. 11551
22. FAIR LABOR STANDARDS. Rep. Roosevelt commended and inserted the testimony of Labor Secretary Wirtz before the Education and Labor subcommittee on Fair Labor Standards Amendments of 1965. pp. 11551-4
23. ITEM VETO. Rep. Halpern urged support of his proposed amendment to the Constitution relative to disapproval of items in general appropriation bills. p. 11560

24. CONSERVATION. Rep. Ottinger urged enactment of his bill to provide for the establishment of the Hudson Highlands National Scenic Riverway, N. Y., and inserted a supporting article. pp. 11567-9
25. FARM PROGRAM. Rep. Schmidhauser stated that an Iowa farm poll indicated strong support for the food-for-peace and feed grains programs and opposition to the proposal to permit soybeans to be grown on diverted acres. pp. 11570
26. ELECTRIFICATION. Rep. Hansen, Iowa, paid tribute to the Rural Electrification Administration on its 30th anniversary. p. 11574
27. BARTER. Rep. Morris questioned the "administratively confidential" classification of USDA information on a barter withdrawal involving surplus commodities under Public Law 480 and inserted a USDA announcement. pp. 11550-1
28. LEGISLATIVE PROGRAM. Rep. Albert announced that on Tues. the House would consider the State, Justice, Commerce appropriation bill; on Wed. the bill to reduce excise taxes; on Thurs. and the balance of the week H. R. 4623, amending the Reorganization Act, and H. R. 8464, to provide a temporary increase in the public debt ceiling. pp. 11531-2

ITEMS IN APPENDIX

29. URBAN DEVELOPMENT. Rep. Stanton inserted an address, "The Best Word Is Contemporary--the Urban Challenge for America." pp. A2689-90
Extension of remarks of Rep. Rhodes opposing certain provisions of the proposed Housing and Urban Development Act and inserting an article. pp. A2714-8
30. POVERTY. Extension of remarks of Rep. Frelinghuysen criticizing the termination of hearings on the poverty bill "before hearing testimony which would have defined some of the serious and evident shortcomings of the Office of Economic Opportunity." pp. A2693-5
31. FARM LABOR. Extension of remarks of Rep. Cohelan stating that the migrant farm is the least adequately protected of all American workers and inserting an article on this subject. pp. A2695-6
32. ELECTRIFICATION. Extension of remarks of Rep. Michel criticizing REA programs and stating that "REA over the years has continuously waged a cold and often successful war to thwart the congressionally approved standards in the 1936 act." pp. A2696-7
Extension of remarks of Rep. Stephens paying tribute to REA. pp. A2708-9
33. SOYBEANS. Rep. Michel inserted an article, "Washington Digest: Soybean Exports Hurt by Shipping Subsidy." pp. A2699-700
Extension of remarks of Rep. Michel inserting an article, "...A New Soybean Oil for Export", and stating that it "points up the work being done to develop new uses for the soybean." pp. A2705-6
34. WHEAT; PUBLIC LAW 480. Rep. Michel inserted an article, "Nasser Raps U. S. Halt of Wheat Sales." pp. A2707-8
35. TOBACCO; APPROPRIATIONS. Speech in the House by Rep. Duncan during debate on the agricultural appropriation bill opposing the proposed amendment to prohibit use of funds for tobacco price supports. p. A2723

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, D. C. 20250

Official Business

Postage and Fees Paid

U. S. Department of Agriculture

Issued June 9, 1965

For actions of June 8, 1965

89th-1st; No. 103

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HIGHLIGHTS: House passed bill to continue export control. House committee reported cigarette labeling and advertising bill. House subcommittee approved cropland adjustment provision of farm bill. Senate passed Treasury-Post Office-Executive Office appropriation bill. Senate debated foreign aid authorization bill. Rep. Celler commended USDA's implementation of directives on civil rights.

2

HOUSE

1. EXPORT CONTROL. Passed, 387-1, as reported H. R. 7105, to continue the Export Control Act for 4 years. pp. 12375-92
2. TOBACCO. The Interstate and Foreign Commerce Committee reported with amendments H. R. 3014, to regulate the labeling and advertising of cigarettes (H. Rept. 449). p. 12427
3. CROPLAND ADJUSTMENT. The "Daily Digest" states: "Committee on Agriculture; On June 7 the Subcommittee on Conservation and Credit met in executive session and ordered reported favorably to the full committee the cropland adjustment provision of the farm bill." p. D495
4. LEGISLATIVE APPROPRIATION BILL. Passed without amendment this bill, H. R. 8775,

which includes items for the Government Printing Office and the Library of Congress. Regarding a new GPO building, the committee report states that construction funds were omitted from the bill "without prejudice to future reconsideration" because of uncertainty regarding the site and objections raised by the printing industry. pp. 12366-75

5. HOUSING. Rep. Barrett spoke in favor of early debate on the President's housing bill, H. R. 7984. pp. 12392-3
6. BUDGETING. Rep. Widnall spoke in favor of H. R. 8725, to modernize congressional budget review, subject the Budget Director and his Deputy to Senate confirmation establish a Joint Subcommittee on the Federal Budget and Fiscal Policy in the Joint Economic Committee, and strengthen the functions of the General Accounting Office. pp. 12400-5

SENATE

7. TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION BILL, 1966. Passed as reported this bill, H. R. 7060. Senate conferees were appointed. House conferees have not yet been appointed. pp. 12332-6
8. FOREIGN AID. Continued debate on S. 1837, the foreign aid authorization bill (12310-32, 12342-3, 12363-4). Rejected by a vote of 29 to 11 an amendment by Sen. Proxmire to bar the use of Federal funds for the payment of barter agents' commissions, including those relating to CCC (p. 12332).
9. PATENTS. The Judiciary Committee reported with amendments H. R. 4185, to fix the fees payable to the Patent Office (S. Rept. 301). p. 12337
10. WATER RESEARCH. A subcommittee of the Interior and Insular Affairs Committee voted to report to the full committee without amendment S. 24, to expand, extend and accelerate the saline water conversion program conducted by Interior. p. D493
11. FOOD PRODUCTION. Sen. Simpson commended a report by Agricultural Economist Lester Brown, "Increasing World Food Output," and inserted two newspaper articles discussing this report. pp. 12345-7
12. WILDLIFE. Sen. Hruska spoke in support of his bill to permit the use within Canada of certain funds for the conservation of migratory waterfowl and inserted several articles on the subject. pp. 12347-8

ITEMS IN APPENDIX

13. DAIRY; FARM PROGRAM. Rep. McClory inserted Wisc. Gov. Knowles' speech paying tribute to American agriculture. pp. A2935-6
14. FOOD PRICES. Rep. May inserted an article, "Why Housewives Are Paying More For Food." p. A2938
15. ECONOMY. Extension ^{of remarks} of Rep. Martin criticizing economic policies of the administration and urging "a return to sound fiscal policies." pp. A2949-50
16. CIVIL RIGHTS. Extension of remarks of Rep. Celler commending this Department's action to implement congressional and executive directives regarding civil rights. pp. A2950-1

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

JUNE 8, 1965.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H.R. 3014]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows (in terms of the bill, as reported):

Page 4, line 9, immediately after "appear" insert "in print contrasting to the background".

Page 4, line 15, immediately after "printed" insert "in print contrasting to the background".

Page 5, beginning in line 2, strike out "concerning any hazard to health involved in smoking cigarettes" and insert in lieu thereof "with respect to smoking and health".

Page 5, line 6, immediately after "statement" insert "with respect to smoking and health".

Page 5, beginning in line 22, strike out "and subject to the provisions of section 381 (relating to notice to the opposite party) of title 28,".

Page 6, line 22, strike out "twenty" and insert in lieu thereof "eighty".

PRINCIPAL PURPOSE OF THE BILL

The principal purpose of the bill is to provide adequate warning to the public of the potential hazards of cigarette smoking by requiring the labeling of cigarette packages with the statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health."

As reported, the bill does the following:

(1) The bill makes it unlawful for any person to manufacture, import, or package for sale within the United States any ciga-

rettes which do not bear the above-mentioned statement on the package. Violation of this requirement is made a misdemeanor subject to a fine of not more than \$10,000;

(2) The bill prohibits the requirement of any other caution statement on the labeling of cigarettes under laws administered by any Federal, State, or local authority;

(3) The bill states that the Federal Trade Commission has no authority to require any caution statement in any advertisement of cigarettes labeled in conformity with the act, but otherwise neither limits nor expands the authority of the Federal Trade Commission with respect to the dissemination of false or misleading advertisements of cigarettes;

(4) The bill permits injunctions to be obtained to restrain violations of the act, and provides an exemption for cigarettes manufactured for export from the United States.

BACKGROUND INFORMATION

On June 7, 1962, the Surgeon General of the Public Health Service appointed an advisory committee to study all published literature bearing on the relationship of smoking to health. This committee studied the problem for 18 months, and submitted a report to the Surgeon General on January 11, 1964. This report was adopted by the Department of Health, Education, and Welfare. Among its principal findings was the following:

Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action.

On January 18, 1964, the Federal Trade Commission issued a notice of proposed rulemaking, proposing the establishment of a trade regulation rule under which the labeling and advertising of cigarettes would be required to contain a warning of health hazards involved in cigarette smoking. The proposed rule, in modified form, was issued in June 1964.

Both before and after the notice of proposed rulemaking, a number of bills were introduced in the Congress dealing with this subject. On June 23, 1964, this committee began hearings which lasted 4 days (June 23, 24, 25, and July 2, 1964).

Due to the imminent adjournment of the Congress, it was apparent that time would not permit adequate consideration of this problem, and the committee, therefore, directed the chairman to request that the Federal Trade Commission postpone the effective date of the rule which it had adopted with respect to labeling from January 1, 1965, to July 1, 1965.

By letter dated August 19, 1964, the chairman of the committee requested the Federal Trade Commission to postpone the effective date of its rule so as to permit adequate time for the 89th Congress to consider appropriate labeling legislation and thus to avoid any unnecessary delay in protecting the public's health in this area. It had been pointed out during this committee's hearings that litigation over the Federal Trade Commission's action might suspend for 4 years or more the effectiveness of the proposed action by the Commission.

On August 20, 1964, the Commission adopted an amendment to its trade regulation rule postponing the effective date of the labeling requirements specified therein to July 1, 1965.

A number of bills have been introduced dealing with the problem of cigarette labeling and advertising during this Congress. They are H.R. 2248 (Mr. Udall), H.R. 3014 (Mr. Rogers of Texas), H.R. 4007 (Mr. Nelsen), H.R. 4244 (Mr. Fino), H.R. 7051 (Mr. Rooney), H.R. 7393 (Mr. King), H.R. 7560 (Mr. Corman), and H.R. 7713 (Mr. Grabowski).

Hearings were held on these bills on April 6, 7, 8, 9, 13, 15, and May 4, 1965. H.R. 3014, which is reported herewith, was considered by the committee during 2 days of executive sessions, and was ordered reported to the House on May 27, 1965.

SCOPE OF THE PROBLEM

The determination of appropriate remedial action in this area, as recommended by the Surgeon General's Advisory Committee, is a responsibility which should be exercised by the Congress after considering all facets of the problem. The problem has broad implications in the field of public health and health research, and involves potentially far-reaching consequences for a number of sectors of our economy. The entire tobacco raising and manufacturing industry, and the numerous businesses which market tobacco products, are involved. Some proposals have been made in this area which might lead to severe curtailing or the possible elimination of cigarette advertising. This could have a serious economic impact on the television, radio, and publishing industries in the United States.

After giving consideration to various alternative approaches to the problem, the committee determined that congressional action should be taken in order to dispose of this problem promptly and effectively.

LABELING

More than 350,000 copies of the Surgeon General's Committee report have now been distributed. The Public Health Service has developed programs for public education with regard to smoking and health and has established a national clearinghouse. Moreover, State and local health and education authorities, as well as the major voluntary health associations, have launched vigorous smoking education programs.

As a result, the Surgeon General was able to report on January 11 of this year that "nearly one out of four adult men has given up cigarettes." And that "if smoking habits had continued at the level of 3 years ago, there would be about 3½ million more smokers than there are today."

As a result of widespread publicity, many persons apparently already are aware of the smoking and health issue. The committee feels, however, that it is desirable that the Federal Government—upon which persons have come to rely for cautionary labeling of hazardous substances—should take affirmative action which would manifest its concern.

Moreover, while the committee believes that the individual must be safeguarded in his freedom of choice—that he has the right to choose to smoke or not to smoke—we believe equally that the indi-

vidual has the right to know that smoking may be hazardous to his health.

Therefore the committee is satisfied that the public interest requires the inclusion of a fair and factual cautionary statement on every cigarette package.

Such cautionary statement should be short and direct, and should not be weakened in its impact by any qualifying adjectives, such as "excessive," "continual," or "habitual." To this end, the committee had concluded that the following factual and succinct statement should now be prescribed: "Caution: Cigarette Smoking May Be Hazardous to Your Health."

There was general agreement among the witnesses appearing before the committee, whether or not they favored a warning requirement on cigarette packages, that if the committee took any action in this field, such a requirement as to labeling should be uniform; otherwise, a multiplicity of State and local regulations pertaining to labeling of cigarette packages could create chaotic marketing conditions and consumer confusion. Thus, the committee bill, by preempting the field, precludes any Federal, State, or local authority from requiring any statement other than that required by this bill relating to smoking and health on cigarette packages.

ADVERTISING

The trade regulation rule adopted by the Federal Trade Commission would require, effective July 1, 1965, the inclusion of a warning in all advertising of cigarettes of potential hazards to health involved in smoking cigarettes. The reported bill would supersede the Commission's rule, because the committee feels that at the present time the necessity for, and the effectiveness of, this requirement has not been demonstrated.

Some cigarette advertising in past years has been objectionable, particularly in its appeals to young people.

However, the cigarette manufacturing industry has entered into an agreement under which all cigarette advertising will be subject to an advertising code administered by the former Governor of New Jersey, Robert B. Meyner. All cigarette advertising is required to be submitted in advance to Governor Meyner, who has the power to prohibit any advertising which he determines does not meet the requirements of the code.

Under the code, Governor Meyner can impose fines of up to \$100,000 for each violation. Governor Meyner testified before the committee that he interprets his powers under the code very broadly, and that he interprets the term "advertising" to include not only material broadcast on radio and television and printed in magazines but also to include the labeling on packages, counter displays, and all other materials which can be interpreted as promoting the sale of cigarettes. As a result of this code, the character of cigarette advertising has been altered since issuance of the Federal Trade Commission rule. The Department of Health, Education, and Welfare is conducting informational and educational programs in the field of smoking and health, and H.R. 7765, the proposed Departments of Labor, and Health, Education, and Welfare Appropriation Act, 1966, recently passed by the House, includes an item of \$2 million for carrying out these programs.

The foregoing, coupled with the compulsory warning on the package which will be required under the bill, leads the committee to conclude that it is not necessary at this time to insert health warnings in cigarette advertising as proposed by the Federal Trade Commission.

Except for the provision that the Federal Trade Commission may not require health warnings in cigarette advertising, the Commission's authority with respect to false and misleading advertising and other unfair or deceptive acts or practices in commerce with respect to cigarettes is not affected by the bill.

The committee firmly believes that the Federal Trade Commission should regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which affirmatively represents that smoking promotes good health or which affirmatively represents that smoking is not a hazard to health.

As is the case in regard to labeling of cigarette packages, the committee bill preempts all Federal, State, and local authorities from requiring any statement relating to smoking and health in the advertising of cigarettes properly labeled under the terms of the committee bill.

SECTION-BY-SECTION DESCRIPTION OF THE BILL, AS REPORTED

Section 1—Short title

This section provides that this legislation may be cited as the "Federal Cigarette Labeling and Advertising Act."

Section 2—Findings

In this section the findings of Congress are set forth. They are that (a) a Federal program dealing with cigarette labeling and advertising is desirable to provide national uniformity in labeling and advertisements for the cigarette industry, and (b) the production, processing, and distribution of cigarettes, the employment directly and indirectly resulting therefrom and the revenues from taxes on cigarettes, affect commerce and the national economy.

Section 3—Declaration of policy

This section provides that it is the policy of the Congress, and the purpose of this legislation, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby (a) the public may be informed of the possible hazard to health of cigarette smoking through inclusion of a warning to that effect on each package of cigarettes; and (b) commerce and the national economy may be (i) protected to the maximum extent consistent with this policy and (ii) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

Section 4—Definitions

This section provides definitions of certain terms (listed below) which are used in this legislation. (In this section-by-section description, these terms are used as defined in sec. 4.)

(a) "Cigarette" is defined to be any roll of tobacco or other substance wrapped in paper or in any substance other than tobacco, and intended for smoking.

(b) "Commerce" means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such territory and any State or foreign nation, or between the District of Columbia and any State, territory, or foreign nation.

(c) "Territory" is defined to be any insular possession of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

(d) "Package" means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise sold to consumers.

(e) "Person" means an individual, partnership, corporation, or other business or legal entity.

(f) "United States" means the States, the District of Columbia, and the territories and possessions of the United States.

(g) "Sale or distribution" includes sampling or any other distribution not for sale.

Section 5—Labeling

This section provides that it shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes unless their package bears the following statement: "Caution: Cigarette Smoking May be Hazardous to Your Health." This statement would have to appear in print contrasting to the background on either of the two side panels of the package, or in the case of a cylindrical package on the side thereof, in not less than 10-point type on a 12-point body. In the case of boxes, cartons, or containers of any kind (other than the individual package containing cigarettes) such statement would have to be printed in print contrasting to the background on a side in not less than 12-point type on a 14-point base.

Section 6—Advertising

This section provides that nothing in this legislation shall be construed to limit or expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading advertisement of cigarettes. This section also provides that the Federal Trade Commission shall not have authority in any proceeding under any statute administered by it to require the inclusion in any advertisement of any statement with respect to smoking and health if the advertised cigarettes have been packaged in conformity with the labeling provisions of this legislation. Further, no Federal agency could require any additional cautionary statement with respect to smoking and health on any cigarette package labeled in conformity with this legislation.

Section 7—Preemption

This section provides that no cautionary statement with respect to smoking and health other than specified in this legislation shall be required on any cigarette package; and that no such statement with respect to smoking and health shall be required in advertising for cigarettes packaged in conformity with the labeling provisions of this legislation.

Section 8—Criminal penalty

Under this section, any person who violates this legislation would be guilty of a misdemeanor and, on conviction thereof, would be subject to a fine of not more than \$10,000.

Section 9—Injunction proceedings

This section would invest the district courts of the United States with jurisdiction, for cause shown, to prevent and restrain violations of this legislation upon the application of the Attorney General acting through U.S. attorneys in their districts.

Section 10—Cigarettes for export

This section provides that cigarettes manufactured, imported, or packaged (a) for export from the United States or (b) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this act. However, these exemptions would not extend to cigarettes manufactured, imported, or packaged for shipment to U.S. military vessels or shore-based activities wherever such vessels or activities may be located.

Section 11—Separability

This section provides that if any provision of this legislation or the application thereof to any person or circumstances is held invalid, the other provisions of this legislation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 12—Effective date

Under this section, this legislation would take effect 180 days after the date of its enactment.

AGENCY REPORTS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, April 6, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your requests of February 15 and 18, for reports on H.R. 3014 (to be known as the Federal Cigarette Labeling and Advertising Act) and H.R. 4244 (to be known as the Cigarette Labeling Act). (We assume that H.R. 3014 is intended to supersede H.R. 885, by the same sponsor, on which we were asked for a report on February 10.)

This report is also applicable to H.R. 4007, which is identical with H.R. 3014 and is included along with that bill and H.R. 4244 in the announcement of your forthcoming hearings.

1. DESCRIPTION OF THE BILLS

H.R. 3014 and H.R. 4007 would make it unlawful to manufacture, import, or package cigarettes for domestic sale or distribution, or for shipment to U.S. military vessels or shore-based activities wherever located, unless the package (defined to include any pack or box,

carton, or container in which cigarettes are offered or supplied to consumers) bears the statement "Caution: Cigarette Smoking May Be Hazardous to Your Health." The bill prescribes, in terms discussed below, the type size and placement of the required statement on the label. No regulatory agency would be charged with enforcement of the bill but actions for injunction by the Attorney General acting through the U.S. attorneys would lie and the violation would be a misdemeanor subject to a fine up to \$10,000.

The bills would forbid any Federal agency from requiring any additional cautionary statement on packages labeled in conformity with the bill and would deny to the Federal Trade Commission authority to require that advertisements for cigarettes packaged in conformity with the bill include health-hazard warnings, although in other respects the authority of the Federal Trade Commission with respect to false or misleading advertisements of cigarettes is stated to be unaffected. In addition, the bills, in section 7 headed "Pre-emption" and apparently intended to be applicable at State and local levels, preclude any requirement for a health-risk warning in cigarette labeling other than that specified in the bill and any health-risk warning requirement for advertising for cigarettes labeled in conformity with the bill.

H.R. 4244 would deem cigarettes to be misbranded unless each consumer package (whether sold individually or in a carton or case) has printed on it the nicotine and tar content of the total number of cigarettes in the package, and the words "Warning—Contents May Be Dangerous to Health." The bill would make commerce in, or manufacture for commerce of, misbranded cigarettes unlawful and deem it to be an unfair method of competition and unfair and deceptive practice under the Federal Trade Commission Act, which would be applicable to violations of the provisions of the bill. In connection with vesting administrative responsibility for regulation of cigarette labeling in the Federal Trade Commission, the bill would authorize the Commission to cause inspections, analyses, tests, and examinations to be made of any cigarettes which it has reason to believe fall within the prohibition of the bill and to cooperate with Federal, State, and local government agencies and with others on matters related to the purposes of the bill.

II. DISCUSSION

The basic objectives of these bills, fair warning of health risks to the prospective consumer of cigarettes, are objectives that this Department strongly supports. The report of the Surgeon General's expert Advisory Committee on Smoking and Health, which has been accepted by this Department, concluded, on the basis of prolonged study and evaluation of many lines of converging evidence, that "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action" (p. 33), a conclusion with which we fully agree. Summaries of some of the major findings and conclusions of the Advisory Committee and of this Department's existing and proposed activities in the field of smoking and health are contained in our report to you, dated June 22, 1964, on eight bills relating to cigarettes and other smoking products. The Surgeon General of the Public Health Service appeared and testified before you on June 23, 1964.

Acting upon the call of the Advisory Committee for appropriate remedial action, the Federal Trade Commission, after hearings, issued its trade regulation rule of June 22, 1964, requiring that, in connection with the sale, offering for sale, and distribution in commerce (as defined in the Federal Trade Commission Act) of cigarettes, all advertising and every pack or other container in which cigarettes are sold to the consuming public, disclose "clearly and prominently * * * that cigarette smoking is dangerous to health and may cause death from cancer and other diseases." While originally made effective January 1, 1965, with respect to labeling and July 1, 1965, with respect to advertising, the Federal Trade Commission, as your committee is aware, has at your committee's request also deferred the effective date of the labeling requirement to July 1 in order to give your committee an opportunity to consider legislation on the subject.

This Department, as the major Federal agency charged with the protection of the public health and as the agency responsible for the administration of the Food, Drug, and Cosmetic Act, the Federal Hazardous Substances Labeling Act, and other consumer protection legislation, believes that labeling and advertising should, in general serve not only as a medium of identification and market promotion of a product, but should, in the interest of honesty and fair dealing, neither mislead nor fail to give the consumer the information concerning the product that he needs in order to make an informed decision. This is especially so where the product has a potential for harm, and all the more so where children and young people are involved.

We do not share the view of those who assume that, since the health risks of smoking have been widely publicized, no useful function would be served by including an appropriate reminder of those risks in information to the consumer. We believe, rather, that not only specific warning, but also other requirements to prevent misleading statements or omissions in such promotional material, would help to round out our efforts by way of public information and education to impress upon the public the hazards of smoking. This is particularly true in view of the fact, a fact especially significant for young people, that, as stated in the Advisory Committee's report, the "overwhelming evidence indicates that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined."

The considerations arguing for appropriate regulation in this field are, moreover, sufficiently compelling to make it likely that in the absence of Federal regulation the States or municipalities, or a number of them, would attempt to fill the void. With respect to advertising, such attempts would largely be abortive because of the territorial limits to State authority, the nature of some of the advertising media, and the exclusivity of Federal control over radio and television communication. But with respect to labels and labeling such efforts could be more effective, with results that, because of the diversity of regulation likely to occur, would tend to burden the industry far more severely than Federal regulations would be likely to do. In the case of a product, such as cigarettes, which is shipped by the manufacturer into every State by the millions of packages, uniformity of labeling requirements would seem to be of the essence. It is no doubt because of such considerations that section 7 of H.R. 3014 and H.R. 4007 provides for Federal preemption of the field.

We are encouraged by, and welcome, the current effort of the industry at self-regulation, as evidenced in the cigarette advertising code agreed upon by the cigarette manufacturers, which also covers labeling and which includes not only a statement of standards but provisions for clearance with an independent code administrator by members of the voluntary system, and for pecuniary sanctions and publicity by the administrator against violators of the code. An adequate voluntary program might offer a reasonable solution to advertising problems, and we support efforts in this direction. We note, however, that the code, though progressive in a number of ways, stops short of requiring an affirmative health-risk warning.

We believe that regulation, whether voluntary or statutory, should extend both to labeling—i.e., any written, printed, or graphic matter upon or accompanying the consumer package and carton—and to advertising (other than labeling) in its various forms. Further, without in any way questioning the Federal Trade Commission's regulatory authority in this field, we have concluded, as indicated to your committee last year, that remedial action in this field should, with respect to labeling at least, include new and specific legislation and that in our view the most effective approach to labeling regulation (with respect to the health hazard from cigarette smoking) is to bring the labeling of cigarettes, by appropriate amendment, under the Federal Hazardous Substances Labeling Act, where it could be readily fitted into the regulatory scheme of that act and its enforcement. (While it may be argued that cigarettes already fall within the scope of that act, we believe that amendment of that act is desirable to avoid controversy on this point and to adopt the labeling requirements, etc., the specific objective.)

Such regulation over the advertising of cigarettes as may be needed should, we believe, continue to be exercised by the Federal Trade Commission, whether under existing law or under appropriate addenda to the relevant provisions of the Wheeler-Lea amendment to the Federal Trade Commission Act (i.e., secs. 12–16) of the act, which now prohibit false or misleading advertising of food, drugs, devices, and cosmetics.

It should be emphasized in connection with the above-stated proposals that coordination between administration of the Food, Drug, and Cosmetic Act and that of the Wheeler-Lea amendment has been achieved without difficulty under a working agreement between the two agencies.

In view of the above-mentioned considerations, while favoring the objective of these bills to convey to the consumer a warning of the risk to health involved in smoking, we have several reservations about the present bills.

1. In the first place, it seems preferable, from the standpoint of flexibility in the light of advancing knowledge, to leave formulation of the precise warning required to administrative regulation instead of setting forth the warning in the statute itself. We, therefore, suggest that the Federal Hazardous Substance Labeling Act be amended to authorize us, on the basis of the current state of knowledge at any given time, to formulate by regulation an appropriate warning. Should the situation change, e.g., should research or technical improvements in the course of time develop a cigarette that would justify a reduced warning or perhaps even its omission, either for all

cigarettes or those meeting particular specifications—the regulation would be modified accordingly.

2. Secondly, whether or not the statute sets forth the terms of the warning to be used in the label, we believe that the statute should require the warning to be prominent and conspicuous but should leave the precise location and size of the warning on the label, and related matters, to regulation in the light of the expertise and experience of the regulatory agency.

H.R. 3014 and H.R. 4007 would, instead, require that the caution statement “appear on either of the two side panels of the pack, or in the case of a cylindrical pack on the side thereof, in not less than a 10-point type on a 12-point body. In the case of boxes, cartons, or containers * * * other than the individual pack * * * the statement shall be printed on a side in not less than 12-point type on a 14-point base.” Not only should a prescription of this character be left to implementing regulation in our view, but the specific provisions quoted are such as to make it unlikely that the warning will be noticed or remembered. For one thing, in many places where cigarettes are sold at retail and in vending machines it is the face (or one of the two faces) of the pack, and not the side, that is displayed; and after the pack is bought a notice on the side is also less likely to be read than if it were on one or both faces of the pack. Again 10-point type, which is 2 points smaller than the type size used in typing this letter, is hardly calculated to invite the consumer’s attention. We believe also that both the signal word (i.e., “Caution”) and the statement of hazard should be in capital letters to attract attention, as is required under our regulations under the Federal Hazardous Substances Labeling Act which incidentally calls for not less than 18-point type for the signal word and not less than 12-point type for the hazard (unless the label statement on the container is too small to accommodate such type size, which is not true in the case of most cigarette packs).

H.R. 4244, while also requiring only initial capitals, has no precise directions as to type size and location but requires only that the warning be “printed on (the) outside * * * in clear, legible, and plainly visible print.” We would prefer the requirement of the Federal Hazardous Substances Labeling Act that the statement be located “prominently * * * in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label,” as more particularly specified in regulations. The principle that should govern is well stated in the Federal Food, Drug, and Cosmetic Act which directs that all statements required on a label be “prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.”

3. We assume that it is intended—but it may be desirable to make it explicit in the Federal Hazardous Substances Labeling Act (not only for cigarettes but for substances otherwise covered by it)—that if the required warning is in effect negated or disclaimed on the label or in accompanying literature by words, statements, designs, or other graphic material, the warning requirement shall be deemed not to have been met. (See 21 CFR 191.102.) However, in view of the subtle gradations possible in this respect, we would suggest that

consideration be given to the desirability of including specific authority to prohibit or regulate the use of statements that while not clearly negating the warning and while literally true or at least not demonstrably false, may give the consumer the misleading impression that a given cigarette is safer than others.

4. As stated at the outset, H.R. 4244 would require that packages of cigarettes have printed on them the nicotine content and the tar content of the cigarettes in the package. We are concerned that such a statutory requirement might, especially in a competitive context where the public may be more highly conscious that there is danger in smoking, be utilized by cigarette manufacturers in such a way (for example, as part of a larger advertising campaign) that many persons would be misled to believe that cigarettes (or a particular brand) are being made safer than they actually are, even if no statement as to the nicotine or tar content were actually untrue. We are mindful of the so-called tar derby that led to the 1960 agreement of leading cigarette manufacturers (obtained by the Federal Trade Commission) to discontinue the confusing practices of the industry in this connection. It would be unfortunate if such competition were resumed, stimulated by a labeling requirement of the kind proposed by H.R. 4244. On the other hand, it is a reasonable assumption that a reduction in the tar and nicotine content would to some extent reduce the likelihood that smoking will result in adverse health effects, especially cancer.

It would seem to us, on balance, that the best course would be to authorize, but not direct, this Department, under the Federal Hazardous Substances Labeling Act, to require that labeling of cigarette packages and containers offered for sale to consumers include a statement of the average yield or other index of incriminated agents found in the smoke of cigarettes contained in such package or container, if the Secretary determines that an index, based on a particular method which he specified, can communicate information on the basis of which the consumer can make meaningful choices. We would recommend that the Secretary also be given flexible authority with respect to which particular incriminated agents (or, in the case of tar, for example, what composite of agents) shall be required to be stated in the labeling, and to require manufacturers to let us have and verify any information they have as to ingredients (including additives) in the tobacco used by them or in smoke from such tobacco.

5. As above indicated, not only would H.R. 3014 prevent any regulatory agency from imposing a label warning requirement other than that prescribed in the bill—a position which we consider too inflexible—but the bill makes no provision for implementing regulations in respect to the cautionary statement that it requires. If our above-mentioned recommendations are accepted as to the substantive content of the legislation it is plain that only a regulatory agency could carry it out. Moreover, even if these recommendations were not followed and the precise warning, its size, and its location on the package were to be spelled out in the statute to the extent provided in this bill, further implementation, as well as policing, by a regulatory agency would seem to be desirable.

6. Finally, H.R. 3014, as above stated, would deny authority to the Federal Trade Commission to require the inclusion, in any advertisement, of any statement concerning any hazard to health involved

in smoking cigarettes where the advertised cigarettes have been packaged in conformity with the labeling provisions of the bill.

The Federal Trade Commission, in its trade regulation rule, has specifically invited interested parties to apply for suspension, modification, or abrogation of the rule with respect to advertising of cigarettes before its effective date if circumstances have sufficiently changed—and this could include consideration of the effect of label warnings—to justify such action in the public interest. We do not believe that the public health would be well served by striking from the hands of the Federal Trade Commission the authority that it asserts.

7. H.R. 3014 and H.R. 4007 define the term “cigarette” as “any roll of tobacco or other substance wrapped in paper or in any substance other than tobacco, and intended for smoking.” [Emphasis ours.] The reference to “other substance” may be aimed at possible substitutes, but there is no information as to their health hazard comparable to the information as to the hazard of “cigarettes” in their accepted sense. H.R. 4244 defines a “cigarette” simply as “tobacco rolled in paper or any material but tobacco.”

For the above-stated reasons, we favor legislation along the above-suggested lines in view of these bills in their present form. We should be glad to work with the committee or staff to the end of carrying out our recommendations if the committee should so desire.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

ANTHONY J. CELEBREZZE, *Secretary.*

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., April 7, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to your request for the views of this Department with respect to H.R. 3014 and H.R. 4007, identical bills to regulate the labeling and advertising of cigarettes, and for other purposes, and H.R. 4244, a bill to provide that cigarettes sold in interstate and foreign commerce shall be packaged and marked so as to bear a warning that they may be dangerous to health and to show the nicotine and tar content of the cigarettes in each package.

H.R. 3014 and H.R. 4007 would make it a criminal offense, subject on conviction to a maximum fine of \$10,000, for any person to manufacture, import, or package for sale or distribution within the United States or for shipment to U.S. military vessels or shore-based activities, any cigarettes the package of which, including pack, box, carton, or container of any kind in which cigarettes are offered for sale, fails to bear the statement, in not less than specified size print, “Caution: Cigarette Smoking May be Hazardous to Your Health.” The bill also provides that nothing therein contained shall be construed to limit or expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading

advertisement of cigarettes, provided that the Commission shall not have authority to require the inclusion in any advertisement of any statement concerning any hazard to health involved in smoking cigarettes where the advertised cigarettes bear the caution statement prescribed therein. Further, the bill would preempt the field with respect to caution statements in the labeling and advertising of cigarettes.

H.R. 4244 provides that cigarettes shall be considered to be misbranded unless each individual package in which such cigarettes are usually sold to the ultimate consumer has printed on its outside in clear, legible, and plainly visible print (1) the nicotine and tar content of the total number of cigarettes in the package and (2) "Warning—Contents May Be Dangerous to Health." The bill also provides, in substance, that the Federal Trade Commission shall administer and enforce the provisions thereof under rules, regulations, and procedures provided for in the Federal Trade Commission Act as though the applicable terms and provisions of that act were incorporated into and made a part of this bill. The Commission is also authorized to (1) cause inspections, analyses, tests, and examinations to be made of any cigarettes which it has reason to believe fall within the prohibitions of the bill, and (2) to cooperate on matters related to the purposes of the bill with any Federal, State, or local agency, or with any person.

One basic objective of each of these bills is the same—to protect the health of consumers and prospective consumers of cigarettes. H.R. 3014 and H.R. 4007 have the additional stated objective of protecting commerce and the national economy. While we would ordinarily strongly support both objectives, we feel that for the reasons herein-after stated the proposed means of attaining the latter objective may be incompatible with the health protection objective. Under such circumstances we believe that the public health interest must prevail.

The report of the Advisory Committee to the Surgeon General of the Public Health Service on Smoking and Health (issued January 11, 1964) made a number of detailed findings with respect to the health hazards of cigarettes and concluded that "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." "Remedial action" was thereafter promptly initiated.

On February 25, 1964, the Surgeon General spoke of a 10-year-plus program he envisages: "We are aiming at a program of prevention—following the traditional and time-tested public health approach—a program aimed at preventing the habit before it is established. This means a program aimed at young people—teenagers and younger. This means a research program aimed at developing a safer cigarette and other safer forms of tobacco use." The Surgeon General also spoke of continuing research; cooperation with major voluntary health agencies and professional societies; conference plans of the Children's Bureau; a National Clearinghouse on Smoking and Health for public education purposes; and regulatory programs of other Federal agencies.

On April 27, 1964, the cigarette companies announced the cigarette advertising code which prescribed voluntary standards to eliminate advertising and promotional activities in three general areas (1) tending to make cigarette smoking attractive to minors; (2) health representations; (3) representations as to the quantity of an ingredient to be found in the smoke of a cigarette, unless such representations are

significant in terms of health and based on adequate, relevant, and valid scientific data, or the representations are accompanied by a satisfactory disclaimer as to the significance thereof in terms of health.

On June 22, 1964, the Federal Trade Commission, after extensive public hearings, issued a trade regulation rule that "it is an unfair or deceptive act or practice * * * to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton, or other container in which cigarettes are sold to the consuming public that *cigarette smoking is dangerous to health and may cause death from cancer and other diseases.*" [Emphasis supplied.] The effective date, as amended, of rule 1 of the FTC trade regulation rule requiring inclusion of the prescribed warning statement relating to health hazards in both the advertising and labeling of cigarettes is July 1, 1965. It is significant that, because of the action by the cigarette industry voluntarily to end undesirable advertising practices in the area of health claims and deceptive statements as to the quantity of cigarette smoke ingredients, the Commission determined that it would not adopt at that time the additional proposed rules 2 and 3 relating to such practices. However, the Commission stated that it "will maintain a close surveillance of the industry's efforts to eradicate, through voluntary efforts, all traces of unfairness and deception in affirmative representations or suggestions in advertising and labeling."

On January 11, 1965, marking the first anniversary of the issuance of the Advisory Committee Report on Smoking and Health, the Surgeon General, in an address presented at the conference of the National Interagency Council on Smoking and Health, cited facts and figures supporting his statement that "measurable and encouraging progress has been made during the year." He further stated that "I doubt that any health message has ever reached so many in so short a time." Also, he commented on the extensive "research on the components of smoke and their physiological effects" being conducted by the National Institutes of Health, by the Department of Agriculture in close cooperation with the Public Health Service, by universities and foundations, and "by the American Medical Association with financial help from the tobacco industry itself."

In the light of this background, while we strongly favor necessary or desirable legislation to protect the health and safety of the consuming public and to prevent deceptive or unfair labeling and advertising of consumer products, we are not convinced of the need for H.R. 4244 at this time, nor do we believe that enactment of H.R. 3014 or H.R. 4007 would be in the public interest.

As to H.R. 3014 and H.R. 4007, since the Federal Trade Commission has determined that appropriate remedial action to meet the health hazard of cigarette smoking requires the regulation of cigarette advertising as a complement to the regulation of cigarette labeling and has taken implementing action on the basis thereof, we are unable to endorse legislation which would effectively deprive the Commission of regulatory authority in the field of cigarette advertising. As to H.R. 4244, we believe that legislative action might properly await some indication of the effectiveness of the remedial action taken and proposed by the Federal Trade Commission and by the tobacco industry. We fully recognize that there is no assurance that this combined action by the Commission and the industry will provide the public with suitable warnings and protection. Nevertheless, we feel it

should be given a fair trial before legislation to accomplish these objectives is enacted.

Further, with specific reference to the provision in H.R. 4244 that there be shown on the label of each package of cigarettes the nicotine and tar content of the cigarettes therein, we invite attention to the indicated extensive research deemed necessary and currently being conducted in this field. We do not believe that it has been scientifically established that the reduction or elimination of tar, nicotine, or any other specific ingredient in cigarette smoke will significantly lessen the health hazards of cigarette smoking. Until there is more scientific identification and data on the ingredients in cigarette smoke which create the health hazard and on the extent to which these ingredients must be removed to significant in terms of health, we fear that any showing of the yield of specified ingredients in cigarette smoke may provide a sense of false security and inadvertently mislead, rather than protect, consumers of cigarettes. Further, such a showing respecting nicotine, tars, or other components of cigarette smoke, which is unsubstantiated as significant in terms of health, has been regarded by the Federal Trade Commission as an unfair or deceptive trade practice and, in conformity therewith, is prohibited under the cigarette advertising code of April 27, 1964.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES, *General Counsel.*

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on the bills, H.R. 885, H.R. 3014, H.R. 4007, and H.R. 4244, relating to the labeling of cigarettes with respect to their effect on health.

H.R. 885 would make it unlawful, and an unfair method of competition in commerce, and an unfair or deceptive act or practice in commerce, under the Federal Trade Commission Act, to manufacture, import, or package for sale in commerce any package of cigarettes which does not bear a plainly legible warning reading "Caution: Cigarette Smoking May be Hazardous to Your Health." The bill provides that the legislation shall constitute a preemption of the subject matter, and that it shall take effect 120 days after enactment.

Identical bills H.R. 3014 and H.R. 4007 would make it unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the packaging of which fails to bear the following statement: "Caution: Cigarette Smoking May be Hazardous to Your Health." The bills provide that nothing therein shall be construed to limit or to expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading advertisement of cigarettes. How-

ever, the bills also provide that the Commission shall not have any authority to require the inclusion in any advertisement of any statement concerning any hazard to health involved in smoking cigarettes where the advertised cigarettes have been packaged in conformity with the labeling provisions of the bills. All Federal agencies would be precluded from requiring any additional cautionary statement on any package labeled in conformity with the bills. The bills also contain Federal preemption provisions. Violations of the provisions of the bills would be a misdemeanor punishable by a fine of not more than \$10,000.

The bill H.R. 4244 provides that cigarettes shall be considered to be misbranded unless each individual package in which cigarettes are usually sold has printed on its outside the following in clear, legible, and plainly visible print: (1) The nicotine content and the tar content of the total number of cigarettes in the package and (2) "Warning—Contents May Be Dangerous to Health." Enforcement of the provisions of the bill would be vested in the Federal Trade Commission with directions to the Commission to prevent any person from violating the foregoing provisions in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of the statute. Persons violating any of the above provisions would be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act.

Inasmuch as these measures involve considerations of primary concern to the Federal Trade Commission and the Department of Health, Education, and Welfare, the Department of Justice defers to the views of those agencies with respect to legislation in this field.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., April 8, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 3014, to regulate the labeling and advertising of cigarettes, and for other purposes.

The proposed legislation would make it unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear a prescribed statement relating to the health hazard involved in cigarette smoking.

The Bureau of Customs of this Department would be concerned with inspecting imported cigarettes for the presence of the required warning. The Department assumes that the proposed legislation is intended to cover cigarettes imported for commercial purposes. In

that case, the Department anticipates no unusual administrative difficulties in carrying out its responsibility. If, however, the proposed legislation is intended to apply to cigarettes imported as passengers, baggage for the personal use of the importer, administration of the law would involve difficulties since it would expand the customs activities in connection with the already onerous task of examining articles brought into the United States by passengers, particularly tourists.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
Acting General Counsel.

MINORITY VIEWS

Should the Congress pass H.R. 3014, the Federal Cigarette Labeling and Advertising Act as recommended in the majority report of the committee, it would in effect make a "sacred cow" out of the cigarette industry in U.S. commerce by shielding this industry from any future requirements concerning health warnings in tobacco advertisements which might be otherwise imposed by Federal, State, or local authorities.

The Congress has before it a bill which has all the characteristics of a "Jekyll and Hyde." On the surface, this legislation would appear to have the Congress going on record as endorsing the conclusion of the Surgeon General that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." A closer examination of the bill will show that it does little to act as a remedy to curb the cigarette health hazard.

The majority has accepted a basic premise admitting a warning is necessary, yet it stops short of supporting a sound, effective means of thoroughly combating this health problem. The bill requires cigarette packages to carry the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." If this is intended to provide adequate warning to the public of the potential hazards of cigarette smoking, then why not say: "Caution: Cigarette Smoking Is Hazardous to Your Health." The committee in this instance has failed to call an ace an ace and a spade a spade. The Surgeon General's report explicitly says "cigarette smoking is a health hazard."

A more realistic and responsible approach to this problem would be to warn the nonsmoking consumer of the health hazard before the product is purchased—rather than remind the individual who already smokes and after he has the product in his possession, that it may be harmful to his health.

I most strongly object to sections 6 and 7 of this bill. Section 6 would prevent the Federal Trade Commission, the Food and Drug Administration, and the U.S. Public Health Service in administering their respective laws from imposing any additional requirement with regard to the labeling of cigarettes involving a health warning. The bill would also prevent these agencies in administering their respective acts from imposing any additional requirement with regard to the labeling of cigarettes involving a health warning. The bill would also preclude State and local health authorities from imposing such requirements.

Section 7, the preemption provision of the bill, provides that no cautionary statement with respect to smoking and health other than specified in this legislation shall be required on any package; and that no such statement with respect to smoking and health shall be required in advertising for cigarettes packaged in conformity with the labeling provisions of this legislation.

The Secretary of Health, Education, and Welfare has said that preventing any regulatory agency from imposing a label warning requirement other than that prescribed in the bill is "a position which we consider too inflexible."

The National Interagency Council on Smoking and Health submitted a petition to the committee asking us "not to approve any legislation which will prevent the Federal Trade Commission from carrying out its reaffirmed intention of requiring health warnings in cigarette advertising—a conclusion the Federal Trade Commission reached after the most intensive study and after holding public hearings." The National Interagency Council on Smoking and Health was organized and is sponsored by the following agencies:

American Association for Health, Physical Education, and Recreation; American Association of School Administrators; American Cancer Society, Inc.; American College Health Association; American Dental Association; American Heart Association; American Pharmaceutical Association; American Public Health Association; American School Health Association; Association of State and Territorial Health Officers; Department of Classroom Teachers of the NEA; National Congress of Parents and Teachers; National Tuberculosis Association; U.S. Children's Bureau; U.S. Office of Education; U.S. Public Health Service.

Such absolute preemption, as is written into this legislation, weakens rather than strengthens governmental safeguards aimed at protecting the public health. The endorsement of this legislation puts the Federal Government in the position of saying that cigarette smoking constitutes a serious health hazard, but that traditional guardians of public health, the State and local authorities, cannot act to protect their citizens if they believe a warning statement in cigarette advertising would do so.

I cannot conceive of any sound reason why the sale and advertising of cigarettes should be granted Federal protection from States and local regulations which are more stringent than Federal regulations. If the pattern of protection provided for by this legislation for cigarettes were extended to other products, neither State nor local authorities would be in a position to impose in the valid exercise of their policing powers, requirements aimed at protecting the health of the people in their respective States and communities.

The committee has not given adequate study to the real issue in the area of smoking and health—which is reducing cigarette consumption and discouraging young men and women from becoming consumers of this product. This is a subject no one seems to want to talk about because it would point up the need for additional advertising restrictions and point to the fact that cigarettes are hazardous to health. We cannot disregard the effect of advertising on consumption. The Surgeon General's report said: "The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined." Social and psychological gimmicks of advertising play a major role in selling cigarettes. And I am of the belief that the adoption of this bill providing for preemption would have the ironic result of promoting the sale and advertising of cigarettes under the guise of a requirement that cigarette packages must carry a specified caution legend.

It has been pointed out in the majority report that the Department of Health, Education, and Welfare is conducting informal and educational programs in the field of smoking and health, and the Department's Appropriation Act for 1966, recently passed by the House, includes an item of \$2 million for carrying out these programs. I want to point out to my distinguished colleagues that advertising expenditures in the cigarette industry for 1964 for television, magazines, farm papers, supplements, and radio totaled \$240,765,676. Newspaper cigarette advertising expenditures for the same period are estimated to be \$17.5 million. I will leave any ethical comparisons to your individual judgments.

In summary, I am strongly opposed to those features of this legislation which would preclude the imposition of more stringent labeling requirements or the imposition of health warnings in advertisements which Federal, State, or local health authorities may deem necessary in the future in the proper exercise of their respective powers. We must face the facts as presented to us by the Surgeon General, American Cancer Society, American Medical Association, American Heart Association, and the National Tuberculosis Association. We must first concern ourselves with public health and welfare, not legislate to the whims of a special interest.

JOHN E. MOSS.



Union Calendar No. 208

89TH CONGRESS
1ST SESSION

H. R. 3014

[Report No. 449]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1965

MR. ROGERS of Texas introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

JUNE 8, 1965

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To regulate the labeling and advertising of cigarettes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Federal Cigarette Label-
4 ing and Advertising Act”.

FINDINGS

6 SEC. 2. The Congress hereby makes the following
7 findings:

1 (a) A Federal program dealing with cigarette labeling
2 and advertising is desirable to provide national uniformity
3 in labeling and advertising requirements for the cigarette
4 industry.

5 (b) The production, processing and distribution of ciga-
6 rettes, the employment directly and indirectly resulting there-
7 from, and the revenues derived from taxes imposed thereon,
8 affect commerce and the national economy.

9 DECLARATION OF POLICY

10 SEC. 3. It is the policy of the Congress, and the purpose
11 of this Act, to establish a comprehensive Federal program
12 to deal with cigarette labeling and advertising with respect
13 to any relationship between smoking and health, whereby---

14 (a) the public may be adequately informed that
15 cigarette smoking may be hazardous to health by inclu-
16 sion of a warning to that effect on each package of
17 cigarettes.

18 (b) Commerce and the national economy may be
19 (i) protected to the maximum extent consistent with
20 this declared policy and (ii) not impeded by diverse,
21 nonuniform, and confusing cigarette labeling and ad-
22 vertising regulations with respect to any relationship
23 between smoking and health.

DEFINITIONS

SEC. 4. As used in this Act—

(a) “Cigarette” means any roll of tobacco or other substance wrapped in paper or in any substance other than tobacco, and intended for smoking.

(b) “Commerce” means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such territory and any State or foreign nation, or between the District of Columbia and any State or territory or foreign nation.

(c) “Territory” means the insular possessions of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

(d) “Package” means a pack or box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(e) “Person” means an individual, partnership, corporation, or any other business or legal entity.

(f) “United States” means the States, the District of Columbia, and the territories and possessions of the United States.

1 (g) "Sale or distribution" includes sampling or any
2 other distribution not for sale.

3 LABELING

4 SEC. 5. It shall be unlawful for any person to manufac-
5 ture, import, or package for sale or distribution within the
6 United States any cigarettes the package of which fails to
7 bear the following statement: "Caution: Cigarette Smoking
8 May be Hazardous to Your Health." The foregoing state-
9 ment shall appear *in print contrasting to the back-*
10 *ground* on either of the two side panels of the pack, or in
11 the case of a cylindrical pack on the side thereof, in not less
12 than ten-point type on a twelve-point body. In the case of
13 boxes, cartons, or containers of any kind, other than the
14 individual pack, containing cigarettes, the statement shall
15 be printed *in print contrasting to the background* on
16 a side in not less than twelve-point type on a fourteen-point
17 base.

18 ADVERTISING

19 SEC. 6. Nothing herein contained shall be construed to
20 limit or to expand the authority of the Federal Trade Com-
21 mission with respect to the dissemination in commerce of
22 any false or misleading advertisement of cigarettes, provided
23 that the Commission shall not have authority in any pro-
24 ceeding under any statute administered by the Commission

1 to require the inclusion in any advertisement of any state-
2 ment ~~concerning any hazard to health involved in smoking~~
3 ~~cigarettes with respect to smoking and health~~ where the ad-
4 vertised cigarettes have been packaged in conformity with
5 the labeling provisions of this Act. No Federal agency shall
6 require any additional caution statement *with respect to smok-*
7 *ing and health* on any package labeled in conformity with
8 this Act.

9 PREEMPTION

10 SEC. 7. No caution statement with respect to smoking
11 and health other than specified herein shall be required on
12 any package. No caution statement with respect to smoking
13 and health shall be required in advertising for cigarettes
14 packaged in conformity with the labeling provisions of this
15 Act.

16 CRIMINAL PENALTY

17 SEC. 8. Any person who violates the provisions of this
18 Act shall be guilty of a misdemeanor and shall on conviction
19 thereof be subject to a fine of not more than \$10,000.

20 INJUNCTION PROCEEDINGS

21 SEC. 9. The several district courts of the United States
22 are invested with jurisdiction, for cause shown, and subject
23 to the provisions of section 381 ~~(relating to notice to the~~
24 ~~opposite party)~~ of title 28, to prevent and restrain violations

1 of this Act upon the application of the Attorney General of
2 the United States acting through the several United States
3 attorneys in their several districts.

4 CIGARETTES FOR EXPORT

5 SEC. 10. Cigarettes manufactured, imported or packaged
6 (a) for export from the United States or (b) for delivery
7 to a vessel or aircraft, as supplies, for consumption beyond
8 the jurisdiction of the internal revenue laws of the United
9 States shall be exempt from the requirements of this Act:
10 *Provided*, That such exemptions shall not extend to cigarettes
11 manufactured, imported or packaged for shipment to United
12 States military vessels or shore-based activities wherever
13 such vessels or activities may be located.

14 SEPARABILITY

15 SEC. 11. If any provision of this Act or the application
16 thereof to any person or circumstances is held invalid, the
17 other provisions of this Act and the application of such pro-
18 vision to other persons or circumstances shall not be affected
19 thereby.

20 EFFECTIVE DATE

21 SEC. 12. This Act shall take effect one hundred and
22 ~~twenty~~ *eighty* days after the date of its enactment.

[Report No. 449]

A BILL

To regulate the labeling and advertising of
cigarettes, and for other purposes.

By Mr. ROGERS of Texas

JANUARY 18, 1965

Referred to the Committee on Interstate and Foreign
Commerce

JUNE 8, 1965

Reported with amendments, committed to the Com-
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Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, D. C. 20250

Official Business

Postage and Fees Paid

U. S. Department of Agriculture

Issued June 16, 1965

For actions of June 15, 1965

89th-1st; No. 108

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HIGHLIGHTS: Both Houses agreed to conference report on Interior appropriation bill, including Forest Service. Senate ratified International Wheat Agreement. Sen. Javits criticized Budget Bureau for reserves on REA appropriations. Sen. Javits recommended drought relief and water systems loans. House Rules Committee cleared cigarette labeling bill. House passed revised disaster relief bill. House debated housing bill. Rep. Nelsen criticized CSC's taking "no corrective action" on REA "political fund raising." House committee reported bill to provide diversion payments on acreage affected by disaster. Rep. Cooley defended wheat provisions of farm bill and inserted letters.

SENATE

1. **APPROPRIATIONS.** Both Houses agreed to the conference report on H. R. 6767, the Interior and related agencies appropriation bill, including Forest Service items. The House concurred in remaining items in disagreement. This bill will now be sent to the President. See Digest 107 for USDA items. pp. 13143-7, 13197-200
2. **WHEAT.** Ratified, 88-0, the protocol to continue the International Wheat Agreement. pp. 13097-8
3. **EXCISE TAXES.** Passed, 84-3, with amendments H. R. 8371, to reduce or repeal certain excise taxes. Rejected, 41-44, a Bass amendment to exempt vehicles used primarily for farm or ranch. pp. 13127-43, 13147-72, 13174-5, 13177-92
4. **PUBLIC DEBT.** The Finance Committee reported without amendment H. R. 8464, to

provide a further temporary increase in the public debt limit (S. Rept. 330).
p. 13085

5. ELECTRIFICATION. Sen. Yarborough criticized the Budget Bureau for setting up and maintaining a reserve on REA appropriations. p. 13101
Received from REA a report on approval of a loan to the Brazos Electric Power Cooperative. p. 13084
6. WATER SUPPLIES. Sen. Javits spoke in favor of additional drought relief and recommended passage of legislation to provide for direct and insured loans for development of local water systems. pp. 13117-19
7. FARM PROGRAM. The Agriculture and Forestry Committee was authorized to meet during Senate sessions up through June 29. p. 13083
8. RECLAMATION. The Interior and Insular Affairs Committee reported with amendments S. 32, to authorize the Southern Nevada water project (S. Rept. 332). p. 13194
9. PATENTS. Received from the Commerce Department a proposed bill to permit the publication of patent applications; to Judiciary Committee. p. 13085
Passed as reported H. R. 4185, to increase the fees payable to the Patent Office and to expedite prosecution of patent applications. pp. 13095-6
10. EXTENSION WORK. Received a Hawaii legislature resolution requesting that the Morrill Act be amended so as to enable States to invest their grants in corporate equities. p. 13085
11. LEGISLATIVE PROGRAM. The debt-limit bill was made the unfinished business (p. 13194). The Majority Leader announced that the cigarette labeling bill and the saline water bill will follow. p. 13192

HOUSE

12. DISASTER RELIEF. Passed without amendment S. 2089, to provide assistance to Calif., Ore., Wash., Nev., and Idaho, for the reconstruction of areas damaged by recent floods and high waters (pp. 1306-12). This bill will now be sent to the President. This bill is the same as S. 327, which was passed and vetoed by the President due to his disapproval of a provision providing for "coming into agreement" with a congressional committee before taking executive action. This provision was omitted in S. 2089.
13. CIGARETTE LABELING. The Rules Committee reported a resolution for the consideration of H. R. 3014, to regulate the labeling and advertising of cigarettes. p. 13201
14. PERSONNEL. The Post Office and Civil Service Committee reported without amendment H. R. 242, to extend the apportionment requirement in the Civil Service Act of January 16, 1883, to temporary summer employment (H. Rept. 516). p. 13281
Rep. Nelsen criticized the Civil Service Commission for having taken "no corrective action" in the case of "political fundraising functions" in REA. p. 13244
15. FEED GRAINS. The Agriculture Committee reported without amendment H. R. 8620, to take into consideration floods and other natural disasters in reference to the feed grains, cotton, and wheat programs for 1965 (H. Rept. 517). p. 13281

Indian Reservation, Ariz., the correct figure should be \$225,000, rather than \$255,000.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3014, TO REGULATE THE LABELING AND ADVERTISING OF CIGARETTES

Mr. DELANEY, from the Committee on Rules, reported the following privileged resolution (H. Res. 421, Rept. No. 515), which was referred to the House Calendar and ordered to be printed:

H. RES. 421

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. NATHALIE ILINE

The Clerk called the bill (H.R. 1380) for the relief of Mrs. Nathalie Iline.

Mr. CONTE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

OUTLET STORES, INC.

The Clerk called the bill (H.R. 2924) for the relief of the Outlet Stores, Inc.

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CHARLES MAROWITZ

The Clerk called the bill (H.R. 1445) for the relief of Charles Marowitz.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

NORA ISABELLA SAMUELLI

The Clerk called the bill (S. 618) for the relief of Nora Isabella Samuelli.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ESTATE OF R. M. CLARK

The Clerk called the bill (S. 856) for the relief of the estate of R. M. Clark.

There being no objection, the Clerk read the bill, as follows:

S. 856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the estate of R. M. Clark, the sum of \$39,567.67, representing the amount reported by the United States Court of Claims to the Congress in response to S. Res. 344, Eighty-fifth Congress (congressional number 10-58, decided July 17, 1964). The payment of such sum shall be in full satisfaction of the claim of the estate of the late R. M. Clark (an individual formerly doing business as Lenoir City Alcoa Bus Lines) against the United States for losses sustained as a result of the operation by the said R. M. Clark of motor buses for the necessary transportation of nonresident employees of the Clinton Engineer Works, between points in or about Lenoir City, Tennessee, and the Clinton Engineer Works reservation (subsequently the Atomic Energy Commission installation) at Oak Ridge, Tennessee: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

Passed the Senate March 11, 1965.

Attest:

FELTON M. JOHNSTON,

Secretary.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

EDWARD V. AMASON AND EMERITA CECILIA AMADOR AMASON

The Clerk called the bill (H.R. 1473) for the relief of Edward V. Amason and Emerita Cecilia Amador Amason.

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

ESTATE OF DONOVAN C. MOFFETT

The Clerk called the bill (H.R. 1481) for the relief of the estate of Donovan C. Moffett.

There being no objection, the Clerk read the bill, as follows:

H.R. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of laws and regulations relating to national service life insurance, the late Donovan C. Moffett, of Cortland, New York, shall be deemed to have made timely payment to the Veterans' Administration of the March 1963 premium on his national service life insurance five-year level premium term policy (V-2414184), the said Donovan C. Moffett having been physically and mentally incapable of attending to any business matters from February 26, 1963, until the date of his death, April 16, 1963.

With the following committee amendment:

Sec. 2. Any insurance benefits paid under the authority of this Act shall be made from the national service life insurance appropriation, and the amount so paid shall be reduced by the amount of any unpaid premiums upon the policy referred to in this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

LT. THOMAS A. FARRELL, U.S. NAVY, AND OTHERS

The Clerk called the bill (H.R. 2913) for the relief of Lt. Thomas A. Farrell, U.S. Navy, and others.

There being no objection, the Clerk read the bill, as follows:

H.R. 2913

Be it enacted by the State and House of Representatives of the United States of America in Congress assembled, That the hereinafter named persons are hereby relieved of all liability to repay to the United States the amount listed opposite their names or such lesser amounts as may be outstanding on the date of enactment of this Act. Such amounts represent erroneous payments, through no fault of the payees, of temporary lodging allowances and overseas housing allowances incident to the change of permanent duty station of Patrol Squadron 4, United States Navy, from Naha, Okinawa, to Barbers Point, Hawaii, effective November 15, 1963:

Lieutenant Thomas A. Farrell, United States Navy, Medical Corps, \$1,350;

Lieutenant James D. Guyle, United States Navy, \$1,125;

Lieutenant Kenneth I. Bergstrom, United States Navy, \$378;

Lieutenant William R. Broadwell, United States Navy, \$292.50;

Lieutenant Commander Thomas R. Cate, United States Navy, \$1,080;

Lieutenant (junior grade) Robert J. Dana-her, United States Navy, \$90;

Lieutenant Richard E. Dupree, United States Navy, \$315;

Lieutenant Larry Hebert, United States Navy, \$378;

Lieutenant Commander William E. Heyl, United States Navy, \$711.10;

Lieutenant Donald C. Klein, United States Navy, \$1,620;

Lieutenant Commander Henry P. Krienke, United States Navy, \$945;

Lieutenant (junior grade) Vincent K. Olstad, United States Naval Reserve, \$126;

Lieutenant (junior grade) Daniel L. Rush, United States Navy, \$648;

Lieutenant William W. Turkington, United States Navy, \$351;

Lieutenant Gary L. Wachter, United States Navy, \$961.60;

Lieutenant Daniel D. Weber, United States Navy, \$202.50;

Lieutenant Commander Robert Wunderlich, United States Navy, \$1,485.

SEC. 2. In the audit and settlement of the accounts of all certifying and disbursing officers of the United States, full credit shall be given for all amounts for which liability is relieved by this Act.

SEC. 3. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to any person named in the first section of this Act, an amount equal to the aggregate of the amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section of this Act: *Provided*, That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

JOANNE MARIE EVANS

The Clerk called the bill (H.R. 3103) for the relief of Joanne Marie Evans.

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CERTAIN CIVILIAN EMPLOYEES AT TINKER AIR FORCE BASE

The Clerk called the bill (H.R. 3750) for the relief of certain individuals.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each individual named in section 2 of this Act is relieved of liability to pay to the United States the amount set forth opposite his name, which amount represents an overpayment of compensation received by him from October 21, 1962, to July 5, 1964, both dates inclusive, while employed at Tinker Air Force Base, Oklahoma. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States credit shall be given for amounts for which liability is relieved by this Act.

SEC. 2. The individuals referred to in the first section of this Act and the amount of the liability of each of them, are as follows:

Name:	Amount
Hightower, Arthur O.....	\$258.80
Fleming, Bettye J.....	298.88
Akin, Edward L.....	408.29
Brown, Evelyn D.....	354.76
Moore, Mary L.....	319.89
Cavener, Dorothy T.....	357.12
Azeltine, Lena L.....	318.42
Buswell, Mary L.....	356.08
Buchanan, Ancel L.....	474.40
Patrick, Lucille.....	316.80
Gray, Donald J.....	208.55
Ozeretny, Jerry E.....	255.29
Pettit, Alva F.....	493.60
Benson, Lloyd A.....	494.72
Skinner, Norman L.....	199.55
Carothers, J. C.....	511.92

SEC. 3. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each individual listed in section 2 of this Act an amount equal to the aggregate amount paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section of this Act. No part of the amount appropriated in this section for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

With the following committee amendments:

Page 1, lines 6 and 7, strike "October 21, 1962, to July 5, 1964," and insert "October 14, 1962, through August 29, 1964."

Page 2, in the list of names following line 3, after "Hightower," strike "Arthur" and insert "Artur" and after "Patrick," strike "Lucille" and insert "A. Lucille."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JONG WAN LEE

The Clerk called the bill (H.R. 3900) for the relief of Jong Wan Lee.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CAPT. TED M. RICHARDSON, U.S. AIR FORCE

The Clerk called the bill (H.R. 4027) for the relief of Capt. Ted M. Richardson, U.S. Air Force.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McEWEN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CAPT. RICHARD A. INGRAM AND CAPT. ARTHUR R. SPROTT, JR., U.S. AIR FORCE

The Clerk called the bill (H.R. 4028) for the relief of Capt. Richard A. Ingram and Capt. Arthur R. Sprott, Jr., U.S. Air Force.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McEWEN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LT. COL. JOHN E. McROBERTS AND TECH. SGT. HAROLD C. FISHER, JR., U.S. AIR FORCE

The Clerk called the bill (H.R. 4029) for the relief of Lt. Col. John E. McRoberts and Tech. Sgt. Harold C. Fisher, Jr., U.S. Air Force.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. McEWEN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DEDRICK A. MAANUM

The Clerk called the bill (H.R. 4070) for the relief of Dedrick A. Maanum.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LT. COL. JOHN W. CASSELL, U.S. ARMY

The Clerk called the bill (H.R. 4324) for the relief of Lt. Col. John W. Cassell, U.S. Army.

There being no objection, the Clerk read the bill, as follows:

H.R. 4324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lieutenant Colonel John W. Cassell, O80642, United States Army, of Fort Riley, Kansas, the sum of \$3,651.20 in full settlement of all claims against the United States for reimbursement in addition to the amount he received under section 2732 of title 10, United States Code, for household goods and personal effects destroyed aboard the United States ship Alcoa Planter, a carrier under Government contract, which caught fire in the harbor at Bremerhaven, Germany, on February 1, 1963. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

With the following committee amendment:

Page 2, lines 3 and 4, strike "in excess of 10 per centum thereof".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE
UNITED STATES DEPARTMENT OF AGRICULTURE
Washington, D. C. 20250
Official Business Postage and Fees Paid
U. S. Department of Agriculture

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HIGHLIGHTS: House passed bill to establish Dept. of Housing and Urban Development.
House Rules Committee cleared omnibus housing bill including title on rural housing.
Senate passed cigarette labeling bill. Senate passed bill to expand salt-water research program.

SENATE

1. CIGARETTE LABELING. Passed, 72-5, as reported S. 559, to provide for regulation of labeling of cigarettes so as to state that smoking may be a health hazard. pp. 13404-38, 13440-4
2. DEBT LIMIT. Passed, 61-26, without amendment H. R. 8464, providing for a 1-year increase in the public debt limit to \$328 billion. pp. 13394-7, 13399-404
This bill will now be sent to the President.
3. D. C. APPROPRIATION BILL. The Appropriations Committee reported with amendments this bill, H. R. 6453 (S. Rept. 333). p. 13361
4. RECREATION. The Interior and Insular Affairs Committee reported with amendments

S. 360, to provide for establishment of the Indiana Dunes National Lakeshore (S. Rept. 334). p. 13361

5. EXPORT CONTROL. Sen. Robertson said he plans to recommend passage of H. R. 7105, to extend the Export Control Act for 1 year without amendment, in view of the short time remaining before expiration of the Act. Such action would involve rejection of the McGovern amendment to change the requirement that half of our Public Law 480 wheat exports be in American vessels. p. 13370
6. ELECTRIFICATION. Passed with amendment S. 1761, to authorize a third power plant at the Grand Coulee Dam. pp. 13375-7
7. WATER. Sen. Ribicoff discussed and inserted an article analyzing the "debate" between those favoring more dams and those favoring preservation of natural beauty. pp. 13382-3
Passed without amendment S. 24, to authorize appropriation of \$200 million additional for the period ending with the fiscal year 1972, for salt-water research through the Interior Department. p. 13404
8. ECONOMIC SITUATION. Sen. Magnuson inserted an address by Secretary of Commerce Connor, "The Growing Economy." pp. 13385-6
9. POLLUTION. Sen. Byrd, W. Va., inserted his address favoring air and water pollution control. pp. 13386-8
10. INTERGOVERNMENTAL RELATIONS. Sen. Symington inserted Vice President Humphrey's speech on cooperative efforts at Federal and local levels. pp. 13392-4
11. FOREIGN AID. Sen. Harris charged that, while accepting our wheat shipments, UAR is exporting rice. p. 13394

HOUSE

12. HOUSING. The Rules Committee reported a resolution for the consideration of H. R. 7984, to assist in the provision of housing for low and moderate income families, to promote orderly urban development, to improve living environment in urban areas, and to extend and amend laws relating to housing, urban renewal, and community facilities (p. 13312). Title IX of this bill "would provide a new program of insured housing loans under the Farmers Home Administration to permit private capital to make mortgage financing available in rural and rural nonfarm areas.
Passed as reported H. R. 6927, to establish a Department of Housing and Urban Development. pp. 13286-304
13. TAXATION. Received the conference report on H. R. 8371, to reduce excise taxes (H. Rept. 525) (pp. 13354-8). Conferees were appointed earlier (p. 13304).
14. TREASURY, POST OFFICE, AND EXECUTIVE OFFICE APPROPRIATION BILL, 1966. Conferees were appointed on this bill, H. R. 7060. p. 13285
15. APPROPRIATIONS. The Appropriations Committee was granted permission to file, by midnight June 17, reports on Defense Department and public works appropriations, 1966. pp. 13285-6

on the fiscal policies of this Government at this time by starting a quorum call and then running through a vote to increase the national debt without having a yea-and-nay vote.

I am not reproaching anyone or saying that there was any deceit or trickery about it. I am willing to say that perhaps the Senator from New Hampshire should have understood that he must be here and demand a yea-and-nay vote. I never dreamed that that was necessary. While I remain a Member of this body, if I am alive, well, and have a voice to speak, there never will be another increase in the debt ceiling without a vote.

Mr. DIRKSEN. Mr. President, I could not even find any Senators to take time on the bill. I took most of the time. Then there was a small amount of discussion on other subjects. I had to surrender the time on which we had agreed. I went to both sides and said, "Who wants a yea-and-nay vote?" I cannot be chasing Senators all over the Capitol. But to those who were present I said, "Do you wish a yea-and-nay vote? If so, you will have it. I shall get a sufficient number of Senators in the Chamber to get a show of hands and we shall have a yea-and-nay vote." But I found no takers.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. COTTON. No Member of this body is more fair and square in dealings with Senators than both the majority leader and the minority leader. I have never asked anything from the distinguished minority leader which was in his power to give me, in courtesy and kindness, that he has not given to me.

Mr. DIRKSEN. And I shall always try to do so.

Mr. COTTON. I know that and appreciate it. However, with as alert, wise, and penetrating a mind as has the distinguished minority leader, since I came to him last night and told him that I would take the floor and fight against putting through as an amendment to the tax bill, that everyone intended to vote for, as significant a measure as the proposed increase in the debt ceiling, I would have thought that he might have known that I desired an opportunity to vote against the bill. I did not want to speak on the subject.

Mr. MANSFIELD. Mr. President, will the Senator yield? I believe the best way to bring the issue to a head is to ask unanimous consent to reconsider the bill, and I intend to do so.

Mr. COTTON. May I complete my sentence?

Mr. MANSFIELD. Surely.

Mr. COTTON. I did not wish an opportunity to speak against the bill because I realize that there is no chance to defeat it. I have never made a practice of taking the time of the Senate with useless remarks. I merely wished an opportunity to cast a protest vote.

Mr. DIRKSEN. To complete the record, what the distinguished Senator from New Hampshire has said is exactly correct. I scurried around the Senate Chamber to make sure that the two bills would be separated. But I did not know

that the Senator had in mind a yea-and-nay vote on the debt ceiling bill. That results from the obtuseness and the lack of ready wit on the part of the minority leader, for which I apologize.

Mr. MANSFIELD. The Senator from New Hampshire was on the floor of the Senate and happened to leave around that time. It was purely coincidental.

Mr. President, I shall ask unanimous consent to reconsider the vote by which the bill (H.R. 8464) was passed. I believe that we are wasting too much time talking about a vote that we did not have.

Mr. WILLIAMS of Delaware. Mr. President, I recognize the importance of the bill, but I should like to point out that last night, when the Senate decided to cut taxes by \$4.8 billion, it made the decision as to whether the debt ceiling would be raised. When the Secretary of the Treasury was before the committee he confirmed, to put it in blunt words, that the increase was necessary to finance the tax cut. If Congress rejects the proposed increase in the debt ceiling, I do not believe that the President would have any choice but to veto the tax cut that the Senate voted last night. Recognizing that point, I voted against the tax cut yesterday because I think it is unwise to cut taxes and finance the reduction on borrowed money, which is exactly what we are doing here today. We are raising the debt ceiling by \$4 billion so that we can finance yesterday's tax cut.

Mr. President, I also voted against the tax cut. I shall now vote against increasing the debt ceiling, recognizing that if we defeat the proposed increase in the debt ceiling, we shall defeat a tax cut which in my opinion should have been postponed until we had a balanced budget. Let us balance the budget first before we start talking about cutting taxes. But let us get straight what we are doing. We cannot have our cake and eat it, too.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to reconsider the vote by which the bill (H.R. 8464) was passed, notwithstanding the fact that a motion to reconsider has already been tabled.

Mr. BASS. Mr. President, reserving the right to object, I understand that further consideration of the bill must be by unanimous consent.

The PRESIDING OFFICER. The Senator is correct.

Mr. BASS. I point out that the Senator in charge of the bill has left the floor of the Senate.

Mr. MANSFIELD. That is all right. He understands.

Mr. BASS. Does he understand?

Mr. MANSFIELD. Yes.

Mr. BASS. Will the vote be taken immediately or will further debate be in order?

Mr. MANSFIELD. The vote will be taken immediately.

Mr. BASS. If the majority leader will include in his request that the vote is to be taken immediately, I shall withdraw my reservation of objection.

Mr. MANSFIELD. The vote will take place immediately because all time has been yielded back or used.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. BASS. Mr. President, I withdraw my reservation of objection.

The PRESIDING OFFICER. If there be no objection, the request of the Senator from Montana is agreed to.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. The vote is now on passage of the bill providing for an increase in the debt ceiling limit.

The PRESIDING OFFICER. That is correct. The bill having been read the third time, the question is, Shall it pass? All time has been yielded back. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. LONG of Louisiana. I announce that the Senator from Alaska [Mr. GRUENING], the Senator from Michigan [Mr. HART], the Senator from Utah [Mr. MOSS], the Senator from Michigan [Mr. McNAMARA], the Senator from Maine [Mr. MUSKIE], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I further announce that the Senator from Wyoming [Mr. McGEE], the Senator from Georgia [Mr. RUSSELL], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. GRUENING], the Senator from Wyoming [Mr. McGEE], the Senator from Michigan [Mr. McNAMARA], and the Senator from Texas [Mr. YARBOROUGH] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from New York [Mr. JAVITS] is necessarily absent, and if present and voting, would vote "yea."

The Senator from Kansas [Mr. PEARSON] is absent on official committee business.

On this vote, the Senator from Hawaii [Mr. FONG] is paired with the Senator from Kansas [Mr. PEARSON]. If present and voting, the Senator from Hawaii would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 61, nays 26, as follows:

[No. 139 Leg.]

YEAS—61

Aiken	Gore	Morse
Anderson	Harris	Morton
Bartlett	Hartke	Nelson
Bass	Hayden	Neuberger
Bayh	Hill	Pastore
Bennett	Inouye	Pell
Bible	Jackson	Randolph
Boggs	Kennedy, Mass.	Ribicoff
Brewster	Kennedy, N.Y.	Russell, S.C.
Burdick	Kuchel	Saltonstall
Byrd, W. Va.	Long, Mo.	Scott
Cannon	Long, La.	Smathers
Carlson	Magnuson	Smith
Case	Mansfield	Sparkman
Church	McCarthy	Stennis
Clark	McGovern	Symington
Cooper	McIntyre	Tydings
Dirksen	Metcalf	Williams, N.J.
Dodd	Mondale	Young, Ohio
Douglas	Monroney	
Fulbright	Montoya	

NAYS—26

Allott	Hickenlooper	Murphy
Byrd, Va.	Holland	Proxmire
Cotton	Hruska	Robertson
Curtis	Jordan, N.C.	Simpson
Dominick	Jordan, Idaho	Thurmond
Eastland	Lausche	Tower
Ellender	McClellan	Williams, Del.
Ervin	Miller	Young, N. Dak.
Fannin	Mundt	

NOT VOTING—13

Fong	McNamara	Russell, Ga.
Gruening	Moss	Talmadge
Hart	Muskie	Yarborough
Javits	Pearson	
McGee	Prouty	

So the bill (H.R. 8464) was passed.

EXPANSION OF SALINE WATER
CONVERSION PROGRAM

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 307, S. 24.

The PRESIDING OFFICER. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 24) to expand, extend, and accelerate the saline water conversion program conducted by the Secretary of the Interior, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. ANDERSON. Mr. President, it is with a great deal of satisfaction that I support S. 24, the bill now before the Senate to extend and accelerate the saline water conversion program. As my colleagues in the Senate know, this is a program in which I have had a great interest for a long time. It was my privilege to introduce the present bill which was submitted and endorsed specifically by the President of the United States. The bill expands the present Federal program for research and development in the field of saline water conversion by authorizing an additional \$200 million of appropriations for the period ending in fiscal year 1972. Much progress has been accomplished in the past 5 years during which the Federal Government has been operating under the Anderson-Aspinall Act of 1961. However, this year the President personally had a hand in reorganizing the Office of Saline Water in the Department of the Interior. The new Director is Mr. Frank DiLuzio, a man for whose ability and competence the senior Senator from New Mexico has a great deal of respect. This has come from a long personal association during the last 2 years of which Mr. DiLuzio served as the top staff officer on the Senate Committee on Aeronautical and Space Sciences. In addition to my high esteem for his professional ability, I regard him with a great deal of personal affection and admiration.

The reason our committee unanimously reported this bill for the full amount requested by the President stemmed from our confidence not only in the officials directing the program but in our belief that the program is so important to the future of our country that it warrants our full and wholehearted support.

In passing this bill, we are not issuing a blank check to the Department of the Interior to disburse \$200 million. In fact Chairman Jackson of the Interior and Insular Affairs Committee is inaugurating a policy of requiring at least annual hearings into the state and progress of our desalination program. This thorough congressional review by the committee with legislative oversight responsibility for this program will keep Congress and the American people fully apprized of developments in this important area. In view of these two reasons: First, the new leadership at the helm of the program, and second, the guarantee of close congressional review and oversight of the program, I wholeheartedly endorse this bill and commend it to my colleagues.

I urge its speedy enactment in order that appropriate planning for the future of the program can continue.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to expand, extend, and accelerate the saline water conversion program conducted by the Secretary of the Interior, the Act of September 22, 1961 (75 Stat. 628), is hereby amended as follows:

- (1) In section 2(b) add the words " , module, component," after the word "laboratory."
- (2) In section 8 substitute the figure "\$275,000,000" for the figure "\$75,000,000" and the figure "1972" for the figure "1967".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 319), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of S. 24 is to provide for an expansion of the Federal program of research and development in the field of saline water conversion, through authorization of an additional \$200 million of appropriations for the period ending fiscal year 1972. Under the existing program, the technology of water desalting has been advanced to the point where it promises that fresh water can be produced from the sea in large combined distillation and electric power generating plants at a cost estimated at 30 to 35 cents per thousand gallons of water, and about 3 mills per kilowatt-hour for electric power. Such costs for water, however, can only be achieved by the construction of a desalting plant about 100 times larger than any yet constructed. Such an increase in size over existing plants presents a number of engineering challenges that must be overcome before an actual operating plant can be shown to be feasible for meeting actual needs.

Substantial investments in engineering and testing of large-scale components, modules, or sections of plants will be required to show that the distillation process will actually produce the results calculated. In addition, an increase in the scale of research and development work on other desalting and demineralizing processes is desirable at this time to

develop techniques that will be useful in dealing with a number of water problems in the inland parts of the Nation.

S. 24 will permit roughly a fourfold expansion of the research program. It is intended to lead, within the next few years, to recommendations for the construction of one or more large-scale desalting plants that can fill a real need through the production of water for the growing population and industry of America.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7060) making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies for the fiscal year ending June 30, 1966, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STEED, Mr. PASSMAN, Mr. ADDABBO, Mr. MAHON, Mr. CONTE, Mr. ROBISON, and Mr. JONAS were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 856. An act for the relief of the estate of R. M. Clark; and

S. 2089. An act to provide assistance to the States of California, Oregon, Washington, Nevada, and Idaho for the reconstruction of areas damaged by recent floods and high waters.

LABELING OF CIGARETTES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 181, S. 559.

The PRESIDING OFFICER. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 559) to regulate the labeling of cigarettes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (S. 559) to regulate the labeling of cigarettes and for other purposes, which had been reported from the Committee on Commerce with amendments.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I believe that I have discussed this with most, if not all, of the interested Senators. I ask unanimous consent that, on the pending legislation, there be a 3-hour limitation, including amendments, 1½ hours to be under the control of the distinguished Senator from Oregon [Mrs. NEUBERGER] and 1½ hours to be under the control of the distinguished Senator from Kentucky [Mr. MORTON], and that paragraph 3 of rule XII, requiring a quorum call for this purpose be suspended.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, this may be an historic occasion; it is surely not a happy one. For we are about to label "hazardous" a product with deep roots in the American past.

Tobacco was here before our earliest ancestors came and tobacco has been a source of pleasure and profit for each generation of Americans.

Today, as in the past, hundreds of thousands of farmers and factory workers, thousands of small retail merchants, many communities, and even States live by the cultivation, manufacture, and the sale of tobacco.

No one can take pleasure in the legislation now before us.

These farmers and workers have done nothing to deserve a fate which has singled out the product on which their livelihood depends.

But the time is past for hoping that it were not so.

There remains no reasonable doubt that cigarette smoking is a significant health hazard. Fifteen years have past since the first substantial research clearly identified smoking as the cause of lung cancer and other diseases. During that 15 years, despite the frenzied efforts of the industry to exonerate the cigarette, new evidence has confirmed the verdict.

The Commerce Committee held 10 days of hearings on smoking and health. While we heard from a number of individual physicians who remain unconvinced by the evidence, we found that no disinterested medical or scientific body which has investigated the relationship between smoking and disease, has failed to conclude that cigarette smoking is a serious health hazard.

Above all, we were faced with the unanimous verdict of the Advisory Committee to the Surgeon General of the U.S. Public Health Service—the Committee of 10 physicians and scientists whose competence and whose freedom from bias has never been questioned. On January 11, 1964, after nearly 2 years of study, this select committee concluded:

Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action.

We found much had already been done.

More than 350,000 copies of the Surgeon General's Committee report have now been distributed. The Public Health Service has developed programs for public and professional smoking education and has established a national clearing-house on smoking and health. Moreover, State and local health and education authorities, as well as the major voluntary health associations, have launched vigorous smoking education programs.

As a result, the Surgeon General was able to report on January 11 of this year that "nearly one out of four adult men had given up cigarettes."

Nevertheless, the committee was convinced that too many Americans, particularly teenagers, remain uncertain of the extent of the potential hazard in smoking and that these people will not be convinced until the Federal Govern-

ment, upon which they have come to rely for cautionary labeling of hazardous substances, takes affirmative action which manifests its concern.

Moreover, while the committee believes that the individual must be safeguarded in his freedom of choice—that he has the right to choose to smoke or not to smoke—we believe equally that the individual has the right to know that smoking may be hazardous to his health.

Therefore the committee was satisfied that the public interest requires the inclusion of a fair and factual cautionary statement on every cigarette package.

Such cautionary statement should be short and direct, and should not be weakened in its impact by any qualifying adjectives, such as excessive, continual, or habitual. To this end, the committee concluded that the following factual and succinct statement should now be prescribed: "Caution: Cigarette smoking may be hazardous to your health."

To secure the necessary prominence and conspicuousness of the warning on each package, S. 559 contains language patterned on the parallel provision of the Federal Hazardous Substances Labeling Act, and requires that the warning be located on the front or back rather than on a side panel, of the cigarette package.

There was general agreement among the witnesses appearing before the committee, whether or not they favored a warning requirement on cigarette packages, that if the committee took any action in this field, such a requirement as to labeling should be uniform; otherwise, a multiplicity of State and local regulations pertaining to labeling of cigarette packages could create chaotic marketing conditions. Thus, the committee bill, by preempting the field, precludes any Federal, State, or local authority from requiring any warning statement other than that required by this bill on cigarette packages.

During the hearings, our committee heard from the former Governor of New Jersey, Robert B. Meyner, testifying in his capacity as administrator of the voluntary cigarette advertising code. Under the code, cigarette manufacturers are required to submit all of their advertising in advance of use to Governor Meyner who, acting in a judicial capacity, has the power to veto its use under the code. Governor Meyner testified that the code, which became effective on January 1, 1965, prohibits cigarette advertising in school and college publications, testimonials from athletes or other celebrities who might have a special appeal to youth, and any advertising which makes unfounded representations with respect to health. Governor Meyner further testified that, as a result of his enforcement of the code, the character of cigarette advertising has been altered since the period upon which the Trade Commission based its findings.

Considering the combined impact of voluntary limitations on advertising under the cigarette advertising code, the extensive smoking education campaigns now underway, and the compulsory warning on the package which will be required under the provisions of this bill,

it was the committee's judgment that no warning in cigarette advertising should be required pending the showing that these various, but less drastic, steps have not adequately alerted the public to the potential hazard from smoking.

There was sharp disagreement, however, among the members of the committee as to the appropriate period during which the warning on the package, as well as other ongoing remedial programs, should be given an opportunity to work. There were several members of the committee, and the chairman was among them, who felt that 1 year was sufficient; others felt that 3 years, and still others that 5 years, was a more appropriate term. Several other members of the committee believed with equal conviction that the bill should prohibit permanently the requirement of a warning statement in advertising by any Federal, State, or local authority.

The committee bill effects a compromise of these divergent views, providing that no warning statement shall be required in cigarette advertising for a 3-year period from the effective date of the act.

The committee amendment also provides that—

The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

The Federal Trade Commission will retain its full authority, under section 5 of the Federal Trade Commission Act, to regulate unfair or deceptive acts, or practices with respect to cigarette advertising; but, under the bill, the Federal Trade Commission cannot for 3 years impose the affirmative requirement that cigarette advertising contain a warning. I think that is very important.

Moreover, the committee report instructed the Federal Trade Commission to regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which tends to negate the warning which must be placed on the package in accordance with the bill.

That is the substance of the explanation of the bill.

I expect that several amendments will be offered to the bill by the Senator from Oregon. The distinguished Senator from Kentucky, the distinguished occupant of the chair [Mr. Bass], and the Senator from Indiana will have some views to express as to the legislation, but particularly as to the amendments.

So, in order to get started on the consideration of the bill, I ask unanimous consent that the committee amendments be considered en bloc and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Without objection, the committee amendments will be considered en bloc, and, without

objection, they are agreed to, and the bill as thus amended will be considered as original text for the purpose of amendment.

The committee amendments agreed to en bloc are as follows:

On page 2, after line 4, strike out:

"(c) The term 'Cambridge Filter Method' is that method of measuring tar and nicotine yields presented at the seventy-seventh annual meeting of the Association of Official Agricultural Chemists, on October 16, 1963, at Washington, District of Columbia."

At the beginning of line 10, strike out "(f)" and insert "(e)"; at the beginning of line 11, strike out "States, the District of Columbia, and possessions of the United States" and insert "States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States"; in line 18, after the word "which", strike out "(1)"; at the beginning of line 20, strike out "Warning: Continual" and insert "Caution:"; at the beginning of line 22, strike out "or (2) fails to state the average tar and nicotine yields per cigarette as determined by the Cambridge Filter Method or such other method as may hereafter be approved for such purpose by the National Bureau of Standards."; at the top of page 3, strike out "statements shall be located prominently on the package in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package" and insert "statement shall be located on the front or back panel of every package, box, carton or other container in which cigarettes are offered for sale, sold, or otherwise supplied to consumers and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package"; after line 10, strike out:

"SEC. 4. No other warning requirement shall be imposed on cigarette labeling or packaging by any Federal, State, or local authority."

And, in lieu thereof, insert:

"SEC. 4. (a) No statement relating to smoking and health, other than the statement required by section 3 of this Act, shall be required on cigarette packages.

"(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

"(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

"(d) The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

"(e) The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act."

And, on page 4, line 19, after the word "shown", strike out "and subject to the provisions of section 381 (relating to notice to the opposite party) of title 28, United States Code,"; so as to make the bill read:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Federal Cigarette Labeling Act'.

"DEFINITIONS

"SEC. 2. As used in this Act—

"(a) The term 'cigarette' means any roll of tobacco, wrapped in paper or any substance other than tobacco.

"(b) The term 'package' means a package, box, carton or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

"(c) The term 'person' means any individual, partnership, corporation, or any other business or legal entity.

"(d) The term 'sale or distribution' includes sampling and means of distribution other than sales.

"(e) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

"LABELING

"SEC. 3. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement:

"'Caution: Cigarette smoking may be hazardous to your health.'"

"The foregoing statement shall be located on the front or back panel of every package, box, carton or other container in which cigarettes are offered for sale, sold, or otherwise supplied to consumers and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

"PREEMPTION

"SEC. 4. (a) No statement relating to smoking and health, other than the statement required by section 3 of this Act, shall be required on cigarette packages.

"(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

"(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

"(d) The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

"(e) The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act.

"CRIMINAL PENALTY

"SEC. 5. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$100,000.

"INJUNCTION PROCEEDINGS

"SEC. 6. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"CIGARETTES FOR EXPORT

"SEC. 7. Cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt

from the requirements of this Act, but such exemption shall not apply to cigarettes manufactured, imported, or packaged for shipment to United States military vessels, installations, or shore-based activities wherever such vessels, installations, or activities may be located.

"SEPARABILITY

"SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

"EFFECTIVE DATE

"SEC. 9. This Act shall take effect one hundred and twenty days after the date of its enactment."

The PRESIDING OFFICER. Who yields time?

Mr. MORTON. Mr. President, I yield myself such time as I may require.

First, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORTON. Have the committee amendments been accepted?

The PRESIDING OFFICER. They have been considered and agreed to.

Mr. MAGNUSON. Yes. They are technical in nature.

Mr. MORTON. I so understand. I wanted to be sure they were adopted. The bill is open to further amendment, then?

The PRESIDING OFFICER. Yes.

Mr. MORTON. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORTON. As I understand, the Senate is operating under a unanimous-consent agreement providing for 3 hours on the bill, including amendments; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MORTON. I thank the Chair.

I yield myself 7 minutes.

Mr. President, the pending bill, S. 559, regulating the packaging of cigarettes, contains far-reaching implications, inasmuch as it affects one of the most important and respected sectors of our national economy.

The Senate is being asked to give its approval to a proposal which is concerned with one of the most controversial and discussed subjects of recent years—cigarette smoking and health. Since the question involved deals with the health of the individual as well as the health of the Nation as a whole, it is my conviction and belief that our total consideration should be given over to this one vital element, health.

In our debates and discussions on other equally important proposals, we are often called upon to base our decisions on any number of factors: the effect on interstate commerce, Federal-State relationship, or the impact on a particular business or segment of labor. All of these matters, and more, can and should be given their just weight before final action is taken.

But we cannot afford the luxury of this process in debating the bill now before us. No one would quarrel with the fact that the tobacco industry plays a most important role in the Nation's economy.

Tobacco is our oldest industry. Millions of people—farmers, growers, suppliers and manufacturers, wholesale and retail merchants—depend upon tobacco for their livelihood. Billions of dollars in tax revenues flow into Federal and State treasuries every year as a result of cigarette sales, and exports of tobacco are important to our balance of payments. Yet the recognition of these facts should, in no way, deter us from our primary duty and responsibility, the protection of the public's health. And, since this legislation must be viewed in this light, I support the bill reported favorably by the Commerce Committee.

The most significant provision contained in the pending bill would require each package of cigarettes manufactured, imported, or packaged for sale or distribution within the United States to bear the statement:

Caution: Cigarette smoking may be hazardous to your health.

While I am fundamentally opposed to placing unwarranted and unnecessary restraints or strictures on any private commercial enterprise, I also believe that the requirement of a warning as proposed by S. 559 is justified in the light of the Surgeon General's advisory report and the extensive hearings conducted by the Commerce Committee.

I should like, for the benefit of the Senate, to review briefly the background and circumstances which gave rise to this legislation. On January 11, 1964, the Surgeon General, Dr. Luther L. Terry, issued the report, "Smoking and Health," a report of the Advisory Committee to the Surgeon General of the Public Health Service. The Advisory Committee report made the following conclusions and findings:

First. Cigarette smoking is associated with a 70-percent increase in the age-specific death rates of males.

Second. In view of the continuing and mounting evidence from many sources, it is the judgment of the Committee that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate.

Third. In general, the greater the number of cigarettes smoked daily, the higher the death rate.

Fourth. Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

Fifth. Evaluation of the evidence leads to the judgment that cigarette smoking is a significant factor in the causation of laryngeal cancer in the male.

Sixth. Cigarette smoking is the most important of the causes of chronic bronchitis in the United States and increases the risk of dying from chronic bronchitis.

Seventh. A relationship exists between pulmonary emphysema and cigarette smoking, but it has not been established that the relationship is causal. The smoking of cigarettes is also associated with an increased risk of dying from pulmonary emphysema.

Eighth. Male cigarette smokers have a higher death rate from coronary artery disease than nonsmoking males. Although the causative role of cigarette smoking in deaths from coronary disease is not proven, the committee considers it more prudent from the public-health viewpoint to assume that the established association has causal meaning than to suspend judgment until no uncertainty remains.

Ninth. Epidemiological studies indicate an association between cigarette smoking and peptic ulcer which is greater for gastric than for duodenal ulcer.

Tenth. The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined.

Subsequent to the issuance of the Surgeon General's Advisory Report, the Federal Trade Commission issued a notice of proceedings for the establishment of trade regulation rules governing the labeling and advertising of cigarettes. Hearings were held by the Commission on the proposed regulations with testimony being received from all interested parties. Based on this testimony and, most importantly, the findings and conclusions reached by the Advisory Committee, the Federal Trade Commission promulgated its trade regulation ruling making it an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act, "to fail to disclose, clearly and prominently, in all advertising and on every pack, box, carton or other container in which cigarettes are sold to the consuming public that cigarette smoking is dangerous to health and may cause death from cancer and other diseases."

That part of the rule relating to labeling was to be effective January 1, 1965, and with respect to advertising, July 1, 1965. In view of the increasing interest in this subject matter by the Congress, the Commission revised its order with respect to labeling by making it effective July 1, 1965, in order that the Congress would have sufficient time to take whatever action is deemed appropriate. Both the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee held hearings on this subject earlier this year and reported bills. S. 559 is now before us for our consideration.

The advocates of legislation to curtail and restrict the packaging and advertising of cigarettes recommended a harsher cautionary statement than that contained in the pending bill. The Surgeon General, Dr. Terry, told the Committee that he would prefer the following wording on cigarette packages:

Cigarette smoking is a serious health hazard and may cause cancer and other diseases.

This statement closely parallels the language proposed by the Federal Trade Commission.

Yet the proponents of this severe and restrictive limitation on cigarette advertising and labeling rested their case almost wholly on the conclusions and find-

ings of the Advisory Committee's report, "Smoking and Health." Briefly, the report finds that:

Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

While finding a causal relationship between cigarette smoking in men and lung cancer, the report was more circumspect in discovering a relationship between cigarette smoking and other diseases.

The report states that male cigarette smokers have a higher death rate from coronary artery diseases than nonsmoking males, but it is not clear that the association has causal relationship; a relationship exists between pulmonary emphysema and cigarette smoking but it has not been established that the relationship is causal; increased mortality of smokers from cirrhosis of the liver has been shown but the data are insufficient to support a direct or causal association; available data suggest an association between cigarette smoking and urinary bladder cancer in the male but are not sufficient to support a judgment on the causal significance of this association; evidence on the tobacco-esophageal cancer relationship supports the belief that an association exists but the data are not adequate to decide whether the relationship is causal.

Thus, aside from the alleged causal relationship found to exist between cigarette smoking and lung cancer in males, the report fails to make an association, either directly or causally, between cigarette smoking and other cancers or coronary artery diseases. Yet, the causal relationship between cigarette smoking and lung cancer in males is predicated solely on statistical evidence. Dr. Terry, under questioning by the Committee, admitted that the Advisory Committee did not engage in any original clinical or laboratory research but merely assimilated and analyzed scientific data then available on this subject. The report, therefore, is merely a compilation of statistical evidence and, instead of being a jumping off place for a major scientific conclusion of fact, should be employed as a bench mark from which additional experiments, examinations, studies and research may proceed. It is not here suggested that the report, "Smoking and Health," should be dispensed with as meaningless for it has raised many serious questions in the minds of many people, but unfortunately it has also raised more questions than it has answered.

The Committee received testimony from many scientists, statisticians, and physicians, including thoracic surgeons, who are not convinced, despite the conclusions drawn by the Advisory Committee's report, that it has been demonstrated scientifically that cigarette smoking causes lung cancer or other diseases. These witnesses, no less renowned in their fields than the members comprising the Advisory Committee, took sharp issue with the Surgeon General's report not only as it relates to statistical evidence but also with respect to animal

experiments, incriminated agents such as tar and nicotine and the incidence of lung cancer, and successfully rebutted, I believe, the contention that cigarette smoking is causally related to cancer and other diseases.

The PRESIDING OFFICER (Mr. Russell of South Carolina in the chair). The time of the Senator from Kentucky has expired.

Mr. MORTON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 3 additional minutes.

Mr. MORTON. Mr. President, the Advisory Committee's report frankly states that bronchogenic carcinoma has not been produced by the application of tobacco extracts, smoke, or condensates to the lung or tracheobronchial tree of experimental animals, while it is true that cancer was induced in mice by rubbing their skin with smoke condensates, such cancers can also be produced in the same manner by the application of innocuous substances, such as beef, sugar, and so forth. It was even found that pipe smoke condensates were more active on the skin of mice than cigarette smoke condensates, the significance of which is important inasmuch as the Advisory Committee's report does not indict pipes and cigars in the smoking-lung cancer theory.

There appears to be a great deal of confusion and doubt as to the part, if any, incriminated agents play in the cigarette smoke-lung cancer causation theory. On the other hand, Dr. Diehl, of the American Cancer Society, stated that the label should be in conformity with the evidence and, therefore, a statement of the amount of tar and nicotine content in the cigarette should appear on the package, whereas Dr. Terry feels that, while it may seem plausible that cigarettes with lower tar and nicotine content may present lesser health hazards, there is presently no proof that this is so. And furthermore, Dr. Terry admitted that nicotine has no effect on the production of tumors either in experimental animals or in man.

S. 559, as introduced, would have required, on each cigarette package, a statement of the tar and nicotine content but the Committee was convinced that such a requirement could not be justified based on the testimony adduced during the hearings and therefore this provision was deleted from the bill.

While I believe that the arguments against the smoking-lung cancer hypothesis based on experimental animal tests and tar and nicotine were effective, the most telling points were aimed at the statistical approach employed by the advisory committee's report. Several examples were cited illustrating how other statistical theories incriminating various substances were, upon further examination, proved to be fallacious. For many years, statistics seemed to bear out the belief that people who lived in wet, marshy swamplands developed a fever and experienced a high mortality rate. Later on, of course, it was discovered that the fever was malaria caused by a mosquito and not wet, marshy grounds.

Another example relates to sugar diabetes where the statistical association was thought to be 100 percent. Overuse of sugar was thought to cause diabetes since sugar could be found in the urine, proof that sugar was the cause. Now we know that sugar is not the culprit but rather that diabetes is caused by a disease of the pancreas due to the destruction of the islands of Langerhan.

Recently, a new controversy surrounding sugar has arisen with statistical overtones. A recent article from the Toronto Star Syndicate describes the experience of Jews who left Yemen and migrated to Israel. While in Yemen, they lived primarily on goat's milk and fats and had a very low incidence of heart disease. After living in Israel, the Yemenites showed just as high a proportion of heart diseases as those who had migrated from the west and the only major change in their diet was sugar.

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired.

Mr. MORTON. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 additional minutes.

Mr. MORTON. Mr. President, surely we are not going to put a skull and crossbones on every package of sugar because of the statistical evidence we have to date. But I do not believe the case has been resolved on smoking and lung cancer based on statistics any more than it has been on sugar and heart disease. Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A KILLER IN THE SUGAR BOWL?

(By Peter Norman, Toronto Star Syndicate)

LONDON.—A killer stalks Britain and cuts down more than 100,000 people a year, many in their prime. Heart disease is the nation's No. 1 killer; it outranks even cancer. This is the detective story of a man who played a hunch; a scientist who cast skeptical eyes on a theory and found it wanting.

And now Prof. John Yudkin, who heads the department of nutrition at London University, believes he has found the dietary agent which kills 14 times more people in Britain every year than die on the roads.

This killer sits on the dining table of every home; it looks inoffensive but is capable of giving a coronary. The person who reaches out for the sugar bowl to add two spoons to a cup of tea does so at his own peril.

The story really begins some 10 years ago when medical science started to look for the cause of the increasing incidence of heart disease. A clue was found in nationwide statistics on food. The only apparent rise in consumption had been in fat and proteins. "Ah," said the scientists, and set about relating this consumption increase to heart disease.

In his work as a nutrition expert, Yudkin was often asked to comment about the theory. He assessed the evidence and found it "less than convincing." I recently sat in his office and he told me how sugar came into the picture.

"In 1957 I thought it worthwhile to summarize in a paper the pros and cons of the fats theory. My main conclusion was that there was little evidence for the involvement of fat or any other dietary constituent. As

far as the statistics were concerned, I pointed out that there was a slightly better clue to be found in sugar consumption," he said.

A short time later he became more interested.

"The real dietary change in the well-off countries has been in sugar consumption," he said, "Coupled with this is the increase in protein. It is often said that the wealthy eat less carbohydrates; this category includes sugar. And this is where I think the fats theory first went wrong. If you look at the statistics for the affluent countries, you will see that the consumption of carbohydrates is comparatively static. But this conceals the key evidence. There are two sub-categories in carbohydrates: starch and sugar. A closer look at the statistics shows that sugar consumption has risen while there has been a corresponding fall in starches. But when the carbohydrates are lumped together, this fact is masked.

"What it means is that we now eat less bread and potatoes and much more sweets, puddings and chocolates, and sugar in our tea and coffee."

The professor told me that everyone in Britain now eats a quantity of sugar in 2 weeks which 200 years ago equaled a whole year's consumption.

"When I realized the facts about sugar," said Yudkin, "my attitude to the fats theory began to change from negative to positive. And then in 1960 I read a very interesting report from Israel. Many Jewish people have left the Yemen and have settled in Israel and when they arrive, they have little evidence of coronaries. And yet in the Yemen their diet was almost entirely made of fatty foods such as mutton and butter. If the fats theory was correct, they should have all been laid low.

"But after 20 years in Israel, the Yemenite Jews show just as high a proportion of heart troubles as those who have immigrated, from the West. And the only major change in their diet is sugar."

It was at this stage that the professor started to think about a research program. But he had a hard time raising money for it and only after much effort and disappointing results in approaching Government bodies was there enough to start a three-pronged investigation.

"Two of the studies are still going on," said Yudkin. "In the first we are conducting experiments with animals; secondly, we are seeing what effect sugar dietary changes have on the human body."

It was in the short-term experiment that the professor got the revolutionary results that have startled the medical world.

He and a research assistant spent 3 months preparing a questionnaire which was then presented to two groups of men. In one group (all in hospitals) were those suffering from coronaries. In the other group were people (comparable in age and social background) in hospitals for such things as broken bones, but otherwise healthy.

The professor takes up the story: "The questionnaire was designed to find out the sugar consumption of both groups, and I thought we would have to go through as many as 50 before there would be any recognizable trend. But by the time we had interviewed 25 of the men, it was obvious that the ones in hospitals with heart disease had for many years taken large quantities of sugar and that the patients in the other group took very little."

I asked what effect sugar has on the body. Yudkin explained that sugar and starch become glucose, which is absorbed into the blood.

"The glucose content of the blood rises after every meal," he said. "When you take ordinary sugar, the speed of rise is more rapid than that for starch. When there is a rise of blood glucose, the pancreas has to produce more insulin to keep the glucose

level constant. One hypothesis is that when you constantly and suddenly alter the glucose content, the pancreas is overworked."

Already additional information is flowing in. The Masai of Tanganyika eat meat and drink huge quantities of milk, yet there is no evidence of coronaries.

"Much remains to be done," said Yudkin.

"The first thing will be for other people to confirm our tests and then research and experiments on a wide front will have to be carried out."

Significantly, perhaps, a number of London restaurants now provide both sugar and saccharin on their tables.

Mr. MORTON. Mr. President, before leaving this phase of the discussion, I should like to discuss briefly some pertinent figures bearing on the incidence of lung cancer and other diseases. If smoking is a causal factor in lung cancer, the incidence of lung cancer in females should be approaching the level in males inasmuch as smoking among women has increased markedly during the past 40 years. Yet, the mortality rate for females from lung cancer has changed remarkably little during this time. Cancer of the larynx offers another interesting phenomenon. Thirty years ago, when women began smoking in increasing numbers, the ratio of laryngeal cancer was 6.3 males to 1 female; today that ratio is 10.8 males to 1 female. Rather than being narrowed, as would be expected, the gap has widened. Yet the reason for this change in the ratio has remained unanswered.

In order to prove that lung cancer is caused by cigarette smoking, a supporter of the Advisory Committee's report described the experience of Iceland. Before American soldiers arrived in Iceland during World War II, there was hardly a trace of lung cancer. However, when the cigarette habit became prevalent, there was found to be an increasing number of lung cancer cases. Even assuming this statement to be true, it is very perplexing when considered in connection with lung cancer in American females since American women have been smoking for a much longer period of time than the Icelanders without any significant increase in lung cancer.

Other discrepancies of a geographical nature have been observed. For instance, lung cancer in Great Britain and Holland is twice as prevalent as in the United States, yet cigarette consumption is only one-half that of ours. Lung cancer is found more often in urban than in rural areas without any indication of any degree of difference in the smoking habits of rural people as compared to city dwellers. Lacking any information from the advisory report to give a rational explanation to these questions, it can logically be assumed that there must be other intervening factors which should be carefully examined. Among these are environment, heredity, immunology, the effects of chronic respiratory diseases, hormonal influences and virus infections.

Even a member of the Advisory Committee recognizes the inherent limitation in total reliance on statistics. Dr. William G. Cockran admitted that "the only way to prove that smoking causes lung cancer is to perform scientific experi-

ments that would prove the existence of a biological mechanism."

I believe that the evidence against smoking, based on statistics and, therefore, far from conclusive, is sufficient to require a statement on the label with respect to the possible health hazards of smoking. Therefore, I support the pending bill requiring the statement "Caution: Cigarette Smoking May Be Hazardous to Your Health" to appear on each package of cigarettes. This is an informative and factual statement of the current state of medical knowledge.

Although the committee agreed to require a warning statement on cigarette packages, it refused to write into the bill any restrictions on cigarette advertising with respect to smoking and health. At the same time, it barred the Federal Trade Commission for a period of 3 years from promulgating its trade regulation requiring a statement with respect to smoking and health in cigarette advertising. I believe that the committee's decision is wise, and while I would prefer no time limitation, I wholeheartedly endorse the committee's action in prohibiting any warning statement in advertising by any Federal, State, or local authority where the cigarettes are labeled in conformity with the provisions of the bill.

I believe that the committee exercised sound judgment in refusing to place serious and prejudicial strictures on cigarette advertising by requiring a statement on the possible health hazards of cigarette smoking. It is the proper role of the Federal Government to see that the public is adequately informed of relevant medical opinion with respect to smoking and health. The Federal Government has fully performed its function. The subject of cigarette smoking and health has been discussed in schools, churches, and meeting places throughout the country during the past 2 years; hundreds of editorials have appeared in newspapers, magazines, and periodicals; television, radio, and other media have devoted a great deal of time and space to this controversy; indeed, I am convinced that there are fewer people in this country who are not aware of the Surgeon General's Advisory Committee report than there are who have never seen Lyndon Johnson on television.

The Surgeon General frankly admitted that public pronouncements have been made time and time again about the findings and conclusions of the advisory report and the alleged risks of cigarette smoking have been clearly delineated. As pointed out in the committee report, the individual must be safeguarded in his freedom of choice—to smoke or not to smoke—but he should also be made aware of the possible health hazards attendant upon his choice to smoke.

The purpose of product labeling is to be informative; the purpose of product advertising is to be persuasive. To require warnings in advertising is based on a complete misunderstanding of the respective role of advertising as contrasted with labeling. The result would be incongruous and completely at odds with accepted commercial practice and marketing theory.

There is absolutely no tradition or precedent for requiring advertising for products promoted to the consuming public to carry warnings. To establish such a precedent would not only be an unjustified departure from traditional ways of doing things but could also be an affirmative disservice to the consuming public. To require warnings in advertising of certain products could lead consumers to expect similar warnings in advertising for other products. Against a background of such an expectation, the failure of particular products to carry warnings in their ads could be construed by consumers as Government approval or officially recognized safety.

To require warnings in advertising would be so unprecedented and such a heavyhanded propaganda effort that it might well precipitate a significant boomerang reaction—that is, positively encourage certain types of people, including young people rebelling against authority, to smoke more. The record of congressional hearings includes expert testimony by psychologists and marketing experts showing that this is a real danger.

The leading advocate of a warning in cigarette advertising, Emerson Foote, a former advertising executive and now head of the Interagency Council on Smoking and Health, stated that he favored legislation requiring a cigarette manufacturer to condemn in his own advertising the product he is advertising because it would make advertising self-defeating. Under question by the committee, Mr. Foote conceded that he was opposed to prohibiting outright cigarette advertising, but by making it self-defeating it would achieve the same purpose since cigarette manufacturers would not advertise if it were self-defeating. Fortunately, the committee wisely rejected Mr. Foote's suggestions.

While the committee bill preempts all Federal, State, and local authority from requiring any warning statement in cigarette advertising, private, voluntary efforts are being exerted to police cigarette advertising. The cigarette advertising code, instituted by tobacco industry, prescribes certain standards for cigarette advertising, relating primarily to advertising which appeals to young people and advertising which contains health representations. For example, the code prohibits cigarette advertising in school and college publications; it bans testimonials by athletes and other celebrities who might have a special appeal to young people; it provides that no representation may be made with respect to health unless it is based on adequate, relevant, and valid scientific data. Under the code, cigarette manufacturers are required to submit all of their advertising in advance of use to the administration of the code, former Gov. Robert Meyner, of New Jersey, who, acting in a judicial capacity, has the power to veto its use under the code, and to assess a \$100,000 penalty for any violation. I believe that the cigarette advertising code represents a type of industry self-regulation which should be encouraged.

Mr. President, I have stated that I intend to support the bill. As the chair-

man has indicated, we worked hard and diligently in committee. The hearings are voluminous. The committee had its differences, but we resolved them.

I trust that the bill will be passed and, I hope, without crippling amendments and not making it a more restrictive measure than it already is.

Mr. President, I reserve the remainder of my time.

Mr. BASS. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. I am glad to yield to the Senator from Tennessee.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. MORTON. Mr. President, I yield such time as the Senator from Tennessee may require.

The PRESIDING OFFICER. The Senator from Tennessee may proceed.

Mr. BASS. Mr. President, I commend the Senator from Kentucky for the outstanding work he has done on this proposed legislation. I join him in the statement which he has just made. I, too, support the pending legislation and hope that it can pass and receive time for ample study and further research in the field before any punitive legislation is enacted.

There will be certain amendments, I understand, offered and I consider the amendments which I have had the opportunity to study in advance to be punitive in nature against a great industry. I hope that those amendments will be defeated and that the bill which the committee has brought before the Senate will be enacted this afternoon.

Mr. President, I ask unanimous consent that a statement I have prepared be placed in the RECORD immediately following the statement of the Senator from Kentucky.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BASS

First, I want to make it clear that I rise to speak in favor of the pending bill, S. 559, the Federal Cigarette Labeling Act as it was reported from the Commerce Committee. Tobacco has been a dynamic force in our Nation's economy for more than 350 years. Historically, tobacco was America's first industry and helped early settlers gain a foothold in this country by saving the Jamestown colony when it was on the brink of economic collapse. Later, tobacco helped attract settlers to the New World and created a basis for new enterprises.

Today, tobacco is one of this Nation's major industries. Its impact on the economy can be measured by the following:

Around 70 million Americans, more than half the adult population, spend more than \$8 billion for tobacco products annually—more than \$7 billion for cigarettes.

Tobacco is grown in 21 States by some 750,000 farm families and is the country's fifth largest cash crop following cotton, wheat, corn, and soybeans. In this connection I would like to cite just a few facts about tobacco's impact on my own State of Tennessee. Tobacco was being grown in my State during the Revolutionary War. In 1964 Tennessee ranked fourth in cash receipts from tobacco production in the United States, following only North Carolina, Kentucky, and Virginia. Well over 100,000 Tennessee farm families grow tobacco annually. Cash receipts for tobacco in Tennessee in 1964 was in excess of \$100 million which represented

17.4 percent of the cash receipts from all farm commodities produced in the State including livestock. Tennessee ranks sixth among the States in leaf handling and processing, creating more than \$4.5 million in income for Tennessee firms.

Tobacco products are manufactured in around 500 factories in the United States operating in a total of 30 States and giving direct employment to more than 96,000 people. In Tennessee there are 11 factories engaged in manufacturing tobacco products which produced in 1964 almost one and a half million pounds of chewing tobacco, 170,000 pounds of smoking tobacco, and in excess of 14.5 million pounds of snuff.

In the entire United States tobacco products are distributed by some 4,500 wholesalers to more than 1.5 million retail businesses selling tobacco products. Within the State of Tennessee there are more than 33,000 outlets selling cigarettes with annual sales totaling over \$133 million.

In the United States as a whole more than 1.5 million businesses share in the tobacco trade supplying equipment, materials, transportation, distributing and merchandising services. An analysis recently showed that the tobacco industry in 1 year generated \$65 million in sales for automobile industry products (and I invite the attention of my friend, Senator HART, of Michigan, to this fact); \$59 million for petroleum products; \$49 million for electric power; \$173 million for chemicals, cellophane, and filter materials; \$260 million for paper and cardboard; \$131 million for rail and truck transportation; and \$68 million for products of iron and steel mills.

In addition in the United States, tobacco taxes provide a major support of government services, on all levels. The Federal Government collects more than \$2 billion annually in tobacco excise taxes, State governments about \$1.2 billion, and municipal governments more than \$50 million. Ninety-nine percent of the total tax comes from the sale of cigarettes. About half of what the consumer spends for a package of cigarettes is paid to government treasuries. The Federal cigarette tax alone totals more than 15 percent of all U.S. excise tax collections. This is particularly interesting in view of the debate which we just recently completed on excise tax reductions. My own State of Tennessee received in excess of \$27 million from State excise taxes on cigarettes in fiscal 1964, the tax being at the rate of 0.07 cent a package. Over the last 15 years my State has collected more than \$235 million in cigarette taxes.

In view of the economic statistics, I do not come lightly or frivolously to the decision to endorse a measure which will undoubtedly have adverse effect on the tobacco industry as a whole, the economy of the Nation, in general, and my own State of Tennessee in particular. It is because I realize that certain grave questions have been raised concerning the possible adverse effects—and I want to emphasize the word possible—that smoking may have on the health and well-being of the smoker that I reached the conclusion that some steps need to be taken by the Federal Government to indicate that it is aware of certain potential adverse effects.

Let me be misunderstood, however, I want to make it clear that I strongly believe that it would be unfortunate if the approval of S. 559 were to be interpreted by the American people as evidence that this body endorses and approves the extravagant accusations made against cigarette smoking by the several voluntary agencies that appeared before the Commerce Committee. The committee hearings demonstrated beyond a doubt that there are substantial and legitimate differences of opinion between competent professional people as to whether cigarette

smoking is or is not a potential health hazard. The medical and scientific community is by no means of any unanimous opinion as to the meaning or significance of the research data relating to the subject of "Smoking and Health."

I think it would be conceded by most of the scientists who have given careful study to this subject that there are important gaps in the scientific information which has been produced to date, and that the standards, of scientific proof necessary to show a connection between cigarette smoking and human diseases, have not been satisfied.

I am not surprised by the statement in the Commerce Committee's report that no prominent medical or scientific body has reached conclusions opposed to those of the Surgeon General's Advisory Committee. Indeed I signed this report. It is quite understandable that this report created an atmosphere of shock and urgency in which it must have been quite simple to put through resolutions against cigarette smoking in medical societies which, in effect, simply adopted the conclusions of the advisory committee without any independent consideration of the matter.

We should keep in mind, also, that the conclusions of the Surgeon General's Committee were totally accepted by the Public Health Service. One scientific journal recently commented on the fact that a controversy was still going on in the scientific community over cigarette smoking and seemed to regard this fact with some astonishment, because, as the writer expressed it, "Once an influential group has spoken, dissent can be professionally perilous." When we consider that nearly every large medical research institution in this country is supported in considerable part through public health service grants, I think we may safely speculate that many scientists are probably aware of the perils of dissent and we should not be misled by any head count of scientists on either side of this issue. Furthermore, only a small number of doctors and scientists is sufficiently familiar with the total work in this area to come to any sound judgment on the scientific questions involved. A good guideline for the evaluation of scientific opinion is that a competent scientists speaking in his own field deserves careful attention, but the opinion of a scientist speaking out of his field is really entitled to little more attention than that of a layman.

We should also regard with skepticism the repeated assertion about "unanimous medical opinion" and the barrage of reports, resolutions, and statements of position which have been cited to the committee as evidence that all the scientific questions are settled. When this kind of clamor is raised about a matter that involves difficult and complicated questions of science it appears certain that prejudice and emotion have taken the place of calm scientific consideration.

The interpretation of scientific data by official groups is no more valid—probably less valid—than the interpretations of competent independent physicians and scientists who have given the question personal and deep consideration and who are sufficiently convinced of their position that they take individual responsibility for it in opposition to the so-called official groups. Certainly more courage and conviction are demonstrated by these individuals than by those who simply go along with the crowd and support a currently popular view. This is why I believe that great weight should be attached to the testimony of the 39 witnesses representing various branches of medicine and allied sciences who appeared before the Commerce Committee and gave opinions based on their observations and research which were contrary to the conclusions of the Advisory Committee and the opinions of the official and voluntary agen-

cies. I do not think that anyone should try to disparage or ignore the views of these eminent professional men.

Scientific truth is not arrived at by any democratic process. Scientific opinion, which is something else, can be weighed, assessed, and discussed, but nobody should be deceived into believing that scientific truth is determined by the sheer number of people who express agreement with an opinion.

If this legislation is passed the public should be informed that this body is not determining and cannot determine whether cigarette smoking is in fact a substantial hazard to health. That determination goes far beyond the boundaries of legislative wisdom and indeed beyond the boundaries of present scientific knowledge.

We must be very careful to avoid the impression that this Congress is branding cigarettes as a cause of any human disease. We must say in all honesty that neither Congress nor medical science can give any assurance that we will have a healthier, longer living population if people cut down on cigarette smoking or refrain from smoking.

The committee report on S. 559 speaks of "potential hazards of cigarette smoking" and should be understood to state that any connection between smoking and disease can only be tentatively proposed or suspected on the basis of our present incomplete knowledge. Certainly we do not want to associate ourselves with the extreme statements found in much of the antitobacco propaganda which tries to make it appear that smoking has been definitely established as a cause of human diseases.

Although it has been proposed by some segments of the scientific community that cigarette smoking is causally related to lung cancer, there are many experienced scientists whose opinions are directly opposed to this proposition. Dr. W. C. Hueper, a scientist who has achieved international recognition for his investigations into the possible causes of cancer and who was for many years Chief of the Environmental Health Section of the National Cancer Institute, stated in a recent article that the charge that smoking is the proven predominant cause of lung cancer is "scientifically unsound and sociologically irresponsible." If, by any action we may take, we should lead the public to believe that we have branded cigarette smoking as the cause of lung cancer, I think it would be both a deception and a serious disservice to the public interest.

Doctors who are directly or intimately concerned with lung cancer and cancer of the larynx and who have had years of experience diagnosing and treating these diseases told the Commerce Committee that they did not believe it was established that cigarette smoking was a cause of either disease and gave logical and sound reasons to support their views.

Several of the most reputable statisticians in our country testified that the statistical data does not represent proof that smoking is a causal factor in disease.

Medical researchers described how various materials—including some common foods—will produce cancer in animals and stated that the application of animal data to human beings is fraught with uncertainty.

Doctors concerned with heart disease pointed to data which strongly supports the causal role of factors other than smoking and indicated that heavy smoking may merely be a symptom of stress rather than a cause of the disease.

We must recognize that we are legislating in an area where experts to whom we must look for guidance are in substantial and basic disagreement. I repeat that we should not make too much of the fact that those on one side purport to speak for official bodies and organized groups and that those on the other side are speaking their individual expert scientific views. In the history of medicine

there are notable instances where an individual—such as Pasteur—has been proved to be right and the so-called organized groups of his time were wrong. This is particularly true when, as here, the vast majority of those voting in the organized groups have little expert knowledge themselves with the result that their votes merely reflect either the currently popular concept or the results of the salesmanship of a few enthusiasts for the current cause.

By prescribing a label which states, "Caution: Cigarette Smoking May Be Hazardous to Your Health," we are going as far as we should under present circumstances. The risk is that our action may imply that more is known about any alleged "hazards" of cigarette smoking than is in fact known.

If by enacting this measure we create the impression that we have endorsed the point of view that the scientific issues are settled, we may discourage the methodical, conscientious research which is needed in order to resolve these issues and thereby do far more harm than good. Continuous and intensive research is required in the further study of tobacco smoking and its relationship to health and disease. We should urge in connection with this measure that this research be pursued with all resources at our command so that the real causes of cancer, heart, and other diseases may be found, regardless of what they may prove to be.

Mr. MORTON. I thank the Senator from Tennessee for his comments.

Mr. President, the ranking minority member of the Committee on Commerce is on the floor. He contributed a highly significant sentence to the report of the committee. I should like to take this occasion to interrogate him as to what he meant—I believe I know what he meant, but I would like to have his statement in the RECORD—by the language which he added to the report, and what his reasons were for having stated what he did. The language to which I refer reads:

The committee firmly believes that the Federal Trade Commission should regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which tends to negate the warning which must be placed on the package in accordance with the bill.

I yield such time as may be required for this purpose.

Mr. COTTON. Mr. President, the reason the Senator from New Hampshire offered and urged the inclusion of this statement in the report is that, in the first place, it was the understanding of the Senator from New Hampshire—and I believe that view was clearly shared by the overwhelming majority of the members of the Committee on Commerce—that at this time Congress should go only to the point of placing a plain and effective warning on each package of cigarettes, and that any restriction in the matter of advertising in magazines and on television and elsewhere should be held in abeyance until such time as Congress and the Commission and the medical authorities complete their analysis of the problem and until we know how effective the warning on the package should prove and how effective the voluntary code adopted by the tobacco industry would be in dealing with this problem.

To that end, a period of 3 years should elapse before the Federal Trade Commission would move in to practically

terminate cigarette advertising, by forcing them to advertise a product warning of its hazards.

It was a fair and reasonable step to hold this requirement in abeyance until the problem could be more fully studied. It would be unfair to practically terminate cigarette advertising—advertising of a product legally manufactured and legally sold; and Congress should no more stop that advertising than the advertising of liquor, beer, or sleeping pills or any other commodity that may have its dangers. However, some precaution should be taken so that the tobacco companies—I am not suggesting that they would—would not take advantage of the restraint placed upon the Federal Trade Commission to put into their advertising something that might negate the warning on the packages.

I have in mind a line of advertising that contains some pictures of men in white coats and offering an opinion that cigarette smoking is not a hazard. That should be provided against during this period in which the control of advertising would be held in abeyance.

For that reason, the Senator from New Hampshire suggested this language, and the committee then recommended that the Federal Trade Commission should regard it as unfair and be at liberty to go ahead immediately against any tobacco advertising that was designed to deny or nullify the warning of hazard on the package.

Mr. MORTON. I thank the Senator. As I recall, in the course of our discussion, the Senator brought up the point of men dressed in white coats, portraying doctors, implying that cigarette smoking was good, and wanted the Commission to be sure to put that kind of advertising out of business.

Mr. COTTON. I wanted the Commission to understand fully the intent of Congress that if it passed this act it would not in any way tie the hands of the Commission to act immediately to protect the public from advertising which would negate the warning.

Mr. MORTON. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 72 minutes remaining.

Mr. MORTON. I reserve the remainder of my time.

Mrs. NEUBERGER. Mr. President, I rise to speak concerning the cigarette labeling act with mixed feelings.

It has perhaps not gone unnoticed among those Senators present that I have had a lively interest in the issue of cigarette smoking and disease for some years. It has not gone unnoticed by myself that this interest has sometimes led others to view me with some apprehension, as though I was some sort of sportsman. The cigarette industry coined the rather dreadful term "antibac" to identify the efforts of the junior Senator from Oregon. I have been described by some as the Cary Nation of the tobacco industry.

For the record, I would like to clarify what I have and have not contended. I do not carry around with me a pair of scissors to cut off burning cigarettes in the mouths of those I meet. I have nev-

er attacked a cigarette stand with a hatchet. I have never equated smoking with sin. Abstention from tobacco is not a condition of employment with my staff. I have never introduced legislation nor have I ever delivered a speech calling for the abolition of cigarettes. Although I am gravely concerned with the incidence of cigarette smoking among children and youth, I have never even advocated a Federal teenage anti-smoking law. As long as society accepts teenage smoking as normal such a Federal ban would be unenforced and unenforceable, even as are the statutes in 47 States which already prohibit the sale of cigarettes to children.

What have I advocated, then? Briefly, I believe there are four general sectors of Government activity in which remedial action is justified: First, education of both the presmoking adolescent and the adult smoker; second, expanded research into the technology of safer smoking; third, reform of cigarette advertising and promotion; and, fourth, cautionary and informative labeling of cigarette packages.

I may be a biased judge, but none of these areas of governmental concern appear in any way to be radical. On the contrary, they are aimed at the facts of cigarette life and death: First, that it is in the public interest that cigarette consumption be reduced and that fewer people begin or continue smoking; and, second, that large numbers of smokers will continue their habit no matter what governmental action is taken.

The educational program of which I speak should certainly include discussions of the physiological hazards of cigarette smoking. Personal confrontation with those suffering from cigarette-caused disease might well be a sobering experience. The attraction of smoking as being a "maturing experience" could be lessened if the young people were brought into contact with an emphysema sufferer who had to take portable lung treatment 3 times a day, as is now common.

This leads me to another aspect of the educational program necessary. There are few smokers before the age of 10 or 11.

We used to say before the age of 14 or 16, but we are constantly dropping that age. But about half of the teenagers are regular cigarette smokers by the age of 18. Educational programs must be developed which take into account the psychology of the attraction of smoking, otherwise the estimate of Public Health Service will come true that if the smoking patterns of the present continue, over 1 million children now alive will die prematurely from the horrible effects of lung cancer alone. And if we consider heart disease and respiratory disease, the number affected could be 4 or 5 times as high.

This is not the ranting of the imaginary "antibac" NEUBERGER. It is the considered judgment of the Public Health Service of the United States that millions of children, our constituents, your own children or grandchildren, your neighbors' children, will die prematurely or spend long years in completely unnecessary suffering unless the consumption pattern of cigarettes in our society can be changed.

How do we go about changing the consumption pattern of these youth in this educational program? Do we tell them that smoking is dirty or expensive, or that it stains the fingers, stunts the growth, and cuts the wind? Do we tell them that smoking causes cancer and respiratory diseases and is associated with an increase in the risk of a heart attack? Do we tell them that it is socially immature and a sign of weakness to smoke—that only sheep smoke?

We are in rather a new area in smoking education. Unlike trying to motivate people to do something once, like getting a chest X-ray or a tetanus shot, and unlike trying to teach children to do something always such as "brush your teeth after every meal," we are trying to persuade people to not do something forever. So old techniques, while not necessarily invalid, must be studied carefully before we place too much faith in them. Finally, the very fact that teenagers are aware that "we" as adults are trying to change them, to study them, to "manipulate" them makes it very difficult to plan and evaluate a program that is meaningful.

As an illustration, let us look at the efforts of the Public Health Service to develop a cigarette education program. During the past fiscal year, 1965, the limited resources of the Public Health Service allowed them only to begin a factfinding program—not about the facts that pertain to whether or not smoking is a health hazard but rather the facts that enable us to understand better the psychosocial dynamics of smoking. They have concentrated on collecting basic information about the nature of the problem and setting up procedures to test various methods of coping with the educational aspects of the problem.

In fiscal year 1966, even with the anticipated expansion of funds to almost \$2 million to establish a Clearinghouse on Smoking and Health, their program will still have to be heavily oriented to developmental activities, some of which they plan to test on a pilot basis. In addition, some of the expected increase of \$660,000 in cancer project grants will be spent for projects relating to smoking and health. This combined amount of money is totally inadequate for a broad, national program, given the current barriers to successful smoking and health education programs. Next year, they plan to continue their collection of data and provision of information to the public and professional groups and to do additional studies aimed at determining the essential factors for successful programs. Their exploratory activities to date have convinced them that reduction of the health hazard of cigarette smoking is no simple matter, but one which will require many years of persistent and expanded effort. For the first time in public health, they are trying to make a currently desirable habit, undesirable, in the face of powerful and considerable resources aimed at counteracting their attempts.

The need then for smoking education is apparent, though judging by the testimony of the tobacco industry the type of tobacco education they would like to

see incorporated in the school systems of our country would include the romantic history of tobacco as currency, and what one tobacco spokesman at the committee hearings called the more than three centuries of relaxation, mental contentment, and pleasure found in smoking.

The need for expanded research into the technology of safer smoking should be obvious to everyone, as well. Not only is it recognition of the fact that millions of people either will not or cannot stop smoking, but it has enormous consequence for the existing cigarette and related industry. Some of those related to the tobacco industry who have accused me of wanting to destroy the livelihood of millions of Americans might better have used their energies to support Senate Joint Resolution 151 of the 88th Congress, which I sponsored, which called for research into Flue-cured tobacco, hopefully leading to safer smoking. As I testified at the time at public hearings:

If we owe a responsibility to the individual smoker, we also cannot be indifferent to the plight of a besieged industry. Hundreds and thousands of Americans dependent upon the cultivation, manufacture, and distribution of tobacco are faced with the verdict that the product upon which their livelihood depends, through no fault of their own, is a deadly menace to their society.

We know now that cigarette smoking causes and aggravates disease. But we do not know the precise mechanism by which this happens. Nor do we now possess the technology for eliminating the sources of disease in cigarette smoking. But surely an industrial technology which is capable of propelling a human being into orbit is capable, with sufficient Government assistance and stimulation, of eliminating the hazard from cigarette smoking.

The Public Health Service in cooperation with the Department of Agriculture is conducting research into the technology of safer tobacco. Attempts are being made to isolate the incriminating agents in tobacco, with the hope that they might be removed. The combustion level of tobacco may be related to its danger and this is also under investigation, with the hope that it might be possible to raise or lower it within cigarettes to reduce the hazards. This research will take many years and unfortunately guarantees no happy solution.

The two areas of governmental concern which I have just discussed are not directly touched upon in the legislation before us today. But the other two are: cigarette package labeling and cigarette advertising.

I began my remarks by saying that I have mixed feelings. By rights, today should be the culmination of a long hard campaign to achieve meaningful congressional endorsement of the Surgeon General's report. The report of the Commerce Committee accompanying this measure before us today even quotes with approval extensively from that report of the Surgeon General and uses its findings as the rationale for the provisions of the bill. Alas, there is little relationship between the phrase "appropriate remedial action" and S. 559. For that reason, I have put down some strengthening amendments, which I now call up.

Mr. MOSS. Mr. President, I support S. 559, the bill to regulate the labeling of cigarettes. I am proud to be one of the cosponsors of this legislation. As you know, Mr. President, I have long been concerned about the health hazards involved in cigarette smoking and introduced legislation to assist the States in informing schoolchildren regarding the harmful effects of tobacco in the 86th and 87th Congresses. During the 88th Congress I introduced a bill to place tobacco products under the jurisdiction of the Food and Drug Administration. Then because of my grave concern over the influence of cigarette commercials on young people, I also appealed formally to the major networks to impose restraints on cigarette advertising.

I might have continued introducing bills and writing to tobacco companies and television networks for a good many years without notable success had it not been for the release of the Surgeon General's Advisory Committee's report on smoking and health in January 1964. As we all know, that report had a tremendous impact on the Nation. The extensive news coverage made it virtually impossible for any of us to ignore the findings, and the stature of the highly competent and unbiased committee was such that there could no longer be any reasonable dispute concerning the evidence linking cigarette smoking to lung cancer and other major illnesses. Now, due primarily to that report and the widespread concern it aroused, we finally have before us long-needed legislation to protect consumers by informing them of the danger of cigarette smoking.

There are several reasons why I believe that it is imperative that we approve the cigarette labeling legislation before us today. The first of these is that cigarette consumption, particularly among young people, is steadily increasing. A recent study by the National Education Association reveals that students are smoking more and starting earlier than ever before. While it may not seem surprising that half of all high school seniors smoke, it is both surprising and extremely disturbing that 10 to 15 percent of all 13-year-olds are now smoking. Now we know from the report of the Advisory Committee on smoking and health that the more an individual smokes and the longer the smokes the more likely he is to develop lung cancer. The committee especially emphasized the fact that men who begin smoking before age 20 have a substantially higher death rate than those who begin after the age of 25. With this evidence before us, we have the clear responsibility, it seems to me, of making sure that young people are alerted to the dangers of smoking.

In a statement last January in which he summarized developments since the release of the report on smoking and health a year earlier, the Surgeon General commented that there appears to have been a 7-percent decline in the number of male smokers in the United States in the last 12 months. There has also been a decline in the number of women who smoke—perhaps 2 to 3 percent. What is less encouraging, however,

is the fact that the sharpest drop in cigarette consumption occurred immediately after the Advisory Committee's report was issued by the end of the year monthly cigarette sales had climbed back to 1963 levels. Moreover, some industry spokesmen are predicting that the scare is over and that 1965 will be a record year. As Ruth and Edward Brecher, authors of the "Consumers Union Report on Smoking and the Public Interest" and numerous articles and pamphlets, have pointed out, the "Great Forswearing" of January and February 1964, has been followed by the "Great Relapse." There are probably many reasons for this, but the most significant one is that the Government thus far has failed to take a single positive step to demonstrate its support of the report on smoking and health and its deep concern over this rising health problem.

In introducing S. 559 on January 15, 1965, the distinguished Senator from the State of Washington [Senator MAGNUSON] commented that by failing to take any action with regard to cigarette labeling, we tempt many individuals into the rationalization that "smoking must not really be so bad or the Government would do something about it." I think that is an excellent point and one we must not forget. One of the duties imposed upon us as legislators by the Constitution is to protect the public welfare. In this situation our inaction has unfortunately contributed to public confusion and a certain amount of incredulity concerning the findings established by the Surgeon General's Advisory Committee. Not only have we failed in the 18 months since the report was issued to take any direct action to warn the public of the dangers cigarette smoking through labeling or advertising restrictions or through public education programs, but by our silence we have created a climate of opinion which encourages cigarette manufacturers to continue their claims that the facts have not been established and that more research is needed.

While I am certainly not opposed to more research to learn just what it is in cigarettes that causes cancer and to develop safer cigarettes, I am opposed to the continued campaign of the manufacturers to discredit the report of the Surgeon General's Advisory Committee. I think it would be well to remind ourselves at this point, lest we be brainwashed too, that not only were the members of the Committee truly outstanding research scientists and clinicians, but that their findings were unanimous. Therefore, it behooves us, it seems to me, to put an end to any questions about whether or not cigarettes are harmful. We can do this most simply and effectively by requiring that henceforth all packages and cartons of cigarettes sold in interstate commerce be labeled to show that smoking is hazardous to health.

It should not be necessary for me to go into great detail on the mortality statistics associated with cigarette smoking, for I know you are all quite familiar with them. I would like to point out, however, that the numbers are already very high and will go much higher unless

some action is taken to curb the use of cigarettes. In the last 50 years the number of deaths from lung cancer in this country has climbed from under 400 per year to more than 43,000. To put this figure in perspective, it is larger than the number of deaths from motor vehicle accidents, diabetes, or cirrhosis of the liver—all among the 10 major causes of death in the United States today. Moreover, because of the steady increase in the number of smokers and in the amount of tobacco consumed during the past few decades, we can expect deaths from lung cancer to continue to rise. Of all forms of cancer, lung cancer has been one of the least amenable to treatment and has one of the lowest 5-year survival rates. The human waste here is appalling. While we cannot and should not attempt to outlaw smoking altogether, we do have the authority to discourage smoking by warning consumers of the dangers involved. Hopefully, by doing so we can help to reduce the terrible toll of lung cancer deaths. Therefore, it is imperative that we seize the opportunity now before us and enact strong labeling legislation.

I have spoken only of deaths from lung cancer, but we must remember that cigarettes have been implicated in a number of other forms of cancer as well as various respiratory diseases such as chronic bronchitis and emphysema. Although a causal relationship has not yet been clearly demonstrated, cigarette smoking has also been linked to heart disease which is our Nation's No. 1 killer. All of these facts should serve to re-emphasize the dangers inherent in cigarette smoking, the pressing need for better public understanding of this major hazard, and our duty as legislators to help protect the public welfare.

Mr. President, a recent survey conducted under the auspices of the Public Health Service revealed that by a ratio of 2 to 1 the American people favor a compulsory warning on labels and in advertising. The ratio of those favoring the warning on labels alone would presumably be even higher. In view of both the public support for such Federal action and our responsibility to inform consumers, particularly young people, about the hazards of smoking, labeling legislation clearly seems in order at this time. Moreover, because of the scope and seriousness of the health problem involved, I wish to lend my full support to the amendments of the able Senator from Oregon [Mrs. NEUBERGER] since I believe they would greatly strengthen and improve the bill now before us.

The Senator from Oregon, as the Members of this body well know, has established an outstanding reputation as a leader in the campaign for cigarette legislation. She is extremely knowledgeable in this area and for many years has fought courageously for the measures she knows are needed. I have given a great deal of thought to the amendments she is offering today and feel they are wise and sound. I urge that the Senate give them favorable consideration.

I think there should be little question that the proposed amendment to

strengthen the wording of the warning to appear on cigarette packages is justified in view of the medical evidence. I believe it is our duty not only to impose a warning label but to establish one that is clear and unequivocal and as strong as the present facts warrant. Once this legislation is adopted we will not soon again have an opportunity to change the wording, the size of the label, or any of the other details. Therefore, it is important that we consider carefully what is needed and adopt appropriate provisions today.

I am in complete agreement with the Senator from Oregon that there is no justification for a 3-year moratorium on any required health hazard warning in cigarette advertising. We know what the facts about cigarette smoking are. Moreover, the tobacco industry's new self-imposed advertising code has now been in effect for nearly 6 months and we have had a chance to observe its limited effect. Surely we do not need to wait 3 more years before taking any steps to counterbalance the impact on the public of the skillful, sophisticated, and expensive advertising appeals which surround them every day.

Mr. President, many States are showing their concern over the smoking and health issue. For example, my own State has recently considered adopting labeling requirements, and the State of New York is also contemplating both labeling and advertising restrictions. While I do not favor individual State action in this matter because of the maze of conflicting regulations which would result, I feel that the States should be allowed to exercise this prerogative if the Federal Government does not choose to do so. It would be reprehensible of the Government, it seems to me, to refuse to act on this matter for as long as 3 years and at the same time preclude State and local authorities from taking the action they feel is necessary to protect the public welfare.

The last of the Senator's proposed amendments is of special interest to me because of my own efforts during the last Congress to place tobacco products under the jurisdiction of the Food and Drug Administration. I feel it is both reasonable and highly desirable to treat tobacco as a hazardous substance. Moreover, there should be many benefits to be derived from mandatory disclosure of the ingredients in cigarettes which, in the judgment of the Secretary of Health, Education, and Welfare, would help the consumer make a meaningful choice among the available brands. I believe the Senator's amendment is even better than the many tar and nicotine disclosure proposals which have been introduced in recent years because it provides for changes in the requirements as new research gives us better knowledge regarding the most harmful components of tobacco and more accurate methods of measuring the levels of these ingredients. This amendment calls for disclosure of precise information but is flexible enough to be useful for many years to come. I strongly urge that it be incorporated in the bill which has been reported by the Commerce Committee.

Mr. President, in preparing my remarks for today I came across a statement made by Henry Clay 135 years ago. That statement is as true today as it was then, and I would like to read it. Clay said:

Government is a trust, and the officers of the Government are trustees; and both the trust and the trustees are created for the benefit of the people.

In our deliberations today let us keep that in mind. Both the Congress itself and we as Members of the Congress are here for the benefit of the people. The legislation before us will clearly benefit the people while further delay on our part will cause them harm. Therefore, I urge the Senate to adopt S. 559 in order to protect and promote the public welfare.

AMENDMENT NO. 272

Mrs. NEUBERGER. Mr. President, I now call up my amendment No. 272.

The PRESIDING OFFICER. The amendment of the Senator from Oregon will be stated.

The LEGISLATIVE CLERK. On page 3, line 17, it is proposed to strike "No" and insert "For the one-year period beginning on the effective date of this Act, no".

On page 4, it is proposed to strike out lines 10, 11, and 12.

Mrs. NEUBERGER. Mr. President, as the chairman of the committee, the Senator from Washington [Mr. Magnuson] stated in his opening remarks, the time period was one of the points of great difference in the committee. The chairman stated that he, too, would have approved of a 1-year period. Some members of the committee approved a 5-year period; there was a compromise of 3 years. I feel that with the evidence of the Surgeon General's report, and with the cooperation we have had from others testifying in the area of the harmful effect of tobacco, the period should be a 1-year period rather than a 3-year period. Who knows but what a great deal of research that is now going on in test tubes, private institutions and in public foundations may come forth tomorrow, next week, or next month with even more convincing evidence that would make us wish that we had not limited ourselves by the 3-year moratorium?

There is no justification for giving the cigarette industry special immunity from the obligation to disclose the dangers to health associated with the normal use of their product. It must be obvious to everyone that had a Surgeon General's committee indicted a diet food, a baldness cure, or watercress as a significant health hazard leading to cancer, heart disease and other serious maladies, we would not be debating the issue in the Senate today. The Federal Trade Commission would have acted and few if any voices would have been raised in protest. After all, there is ample precedent for the action taken last year by the FTC vis-a-vis cigarettes and advertising.

With respect to products subject to the food and drug provisions of the Federal Trade Commission Act, disclosure in advertising of dangers to health and safety from the use of such products has been required by the Commission in a number

of cases. For example, in *Earl Aronberg v. FTC*, 132 F. 2d 165 (7th Cir. 1942), the court upheld a Commission order prohibiting advertisements for a medicinal preparation for female ailments which failed to reveal that use of the product might produce gastrointestinal disturbances, severe toxic and circulatory abnormalities, and, in pregnancy, violent poisonous effects. In *American Medicinal Products, Inc. v. FTC*, 132 F. 2d 426 (9th Cir. 1943), a Commission order was upheld which forbade the use of advertisements for an obesity remedy which failed to disclose that the products might result in serious injury to health. In *Consolidated Royal Chemical Corp. v. FTC*, 191, F. 2d 896 (7th Cir. 1951), the court upheld a Commission order requiring an advertising warning that a cold remedy containing potassium iodide was dangerous when the user suffered from tuberculosis or typhoid disease.

In addition to these court cases, numerous Commission orders not challenged in the courts and still in effect require warnings in advertisements, for example, of the dangers of using laxatives by persons from symptoms of appendicitis; that the use of hearing aid under certain conditions would cause serious injury; that ozone generators used in the treatment of respiratory diseases may injure the respiratory organs if used too often; of the dangerous side effects of analgesic preparations, arthritis remedies, blood tonics, headache remedies, kidney remedies and many, many others.

Congress did not feel constrained to leap to the defense of those firms in the name of the protection of the free enterprise system.

The issue is quite clear. The watercress industry is not one of the major industries of this Nation. Rarely do we see advertisements suggesting that we take a "watercress break." The advertising industry is not bloated with over \$200 million of watercress ads. Watercress is not a multimillion-dollar basic subsidy crop. Hundreds of thousands of people are not directly and indirectly dependent on watercress for their employment. There is no Watercress Institute to act as chief lobbyist for the industry in Washington. But the cigarette industry fits that description like a glove.

It is because of these facts that this bill and the measure now before the House seek to build a wall between the cigarette industry and the public interest. In essence, these bills say that because the cigarette industry is bit it should remain untouched by such pedestrian concerns as the public welfare and safety. If ever there was an illustration of there being one law for the rich and one law for the poor, this is it.

Let us not mince words. By health hazard the Surgeon General's Committee meant premature death. By health hazard the Committee meant months or years of unnecessary pain due to cigarette-caused cancer, emphysema, bronchitis, and cardiovascular disease.

Let us be quite frank about the degree of risk of which we are talking. Everyone who smokes will not contract lung cancer. All those who are heavy smokers, who smoke a pack a day or more, will not die before their time due to a

cigarette-caused disease. A minimum of 3 out of 10 will, according to the most conservative estimate I could find from the Public Health Service. The optimist will, of course, say that he has a 70-percent chance of getting away with his smoking without fatal consequences. To any Senators who feel that these are quite favorable odds, and that the health issue is overdrawn, I have a facetious sporting proposition to make. Senators who believe that cigarette advertising should be left entirely free from any requirements concerning health hazard statements because the death factor is not serious enough, should then volunteer to participate in a little demonstration. Each one should have placed in his hand what we call out in our part of the country a six-shooter. In each revolver there would be two bullets. Each Senator would then be asked to play that sporting game of Russian roulette. The winners would then be free to cast their votes against the warning statement in cigarette advertising. The losers would presumably be announced as necessarily absent.

Mr. President, I ask unanimous consent that excerpts from the Committee report be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

MORATORIUM

The moratorium on any Federal, State, or local action in the field of warning statements in cigarette advertising is justified in the report on the grounds that the Cigarette Advertising Code, the cigarette hazard educational campaigns of the Public Health Service and the various States, and the warning statement on the package should first have a chance to be evaluated for their effectiveness.

The committee report mentions the "impact of voluntary limitations on advertising," in reference to the Cigarette Advertising Code. What is the nature of these limitations? We have observed no limitations of financial outlay for cigarette advertising. In fact, spot TV expenditures by the cigarette industry more than doubled in 1964 over 1963. We have observed no limitation (nor could we expect to) on the central theme of their advertising, which is: "Smoke cigarettes." The subsidiary themes are still that flavor, fun, pleasure, and aroma are found in smoking cigarettes.

The FTC, in a letter to Chairman Magnuson on May 13 in response to his request for the views of the Commission on the amended bill, said: "The Cigarette Advertising Code under which the industry has been operating for some months now has produced no material improvements in cigarette advertising." This judgment is from the agency required to monitor all advertising for adherence to its general advertising regulations.

The committee report appears to lay great emphasis on the smoking education campaigns of the Public Health Service, State and local authorities, and voluntary health associations. The report uses the words "extensive" and "vigorous" to describe these programs, which may be accurate, but the word "effective" was advisedly not used. Only six States have statutes requiring the teaching of the effects of tobacco, although many States interpret the teaching about tobacco in statutes dealing with narcotic education. These educational programs are crying for funds and trained personnel.

We do not even know what the best techniques are for teaching or publicizing of the

health hazards of cigarettes, although we do know that what has been tried by the States in the past is demonstrably inadequate. The committee heard no testimony that our present understanding of smoking behavior and psychology is such that the educational campaigns mentioned in the committee report would be able to compete successfully with the \$200 million a year promotional advertising campaign of the cigarette industry. We may be forgiven for thinking in skeptical terms when it is noted that Congress is considering a \$10 million appropriation to the Public Health Service for a 3-year educational and informational program on the health hazards of smoking, and the R. J. Reynolds Tobacco Co. spent three times that last year alone on just network TV advertising to accomplish the opposite.

The Congress is being advised, therefore, to impose a 3-year moratorium on any Federal, State, or local requirements of warning statements in cigarette advertising in order to allow time for evaluating the effectiveness of a health hazard label on the cigarette package that all admit will not affect consumption, the educational campaigns which are well intentioned but poor, ill-equipped, and understaffed, and the Cigarette Advertising Code which the FTC characterizes as having "produced no material improvements in cigarette advertising."

There seems no doubt in anyone's mind that the most effective action Congress could take to reduce consumption would be to require a health hazard statement in advertising. The complete lack of enthusiasm of the cigarette industry to this suggestion confirms the impression. In light of this, and the above, a 3-year moratorium has little rationale to commend it.

The FTC concurs in this hesitancy to accept the merits of 3 years. In the letter of May 13 referred to earlier, the Commission states:

"We do not believe that a period as long as 3 years from the effective date of the act is necessary in order to determine whether changed circumstances, bearing upon the need for action in regard to cigarette advertising, have occurred or are likely to occur. There is no indication either that extensive efforts by the cigarette industry to educate the American public in the hazards of cigarette smoking are likely in the near future or that the industry will voluntarily effect substantial and significant changes in the nature, content, and scope of cigarette advertising. * * * While we think that a health warning required by Congress and effective immediately with respect to cigarette labeling may have a salutary effect in eliminating unfairness and deception in the marketing of cigarettes, we adhere to the view that the efficacy of such a remedy and the need for any additional action can be determined within 6 months or 1 year after the labeling requirement becomes effective."

In legislation as vital as human health, a 1-year moratorium appears ample.

To those who would claim that 1 year is not long enough, I can only remind them that while Congress can impose a moratorium on warning statements in advertising, there will be no parallel moratorium on the deaths and disease caused by smoking.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mrs. NEUBERGER. Mr. President, I yield as much time as he may require to the Senator from New York.

Mr. KENNEDY of New York. Mr. President, I first wish to compliment the Senator from Oregon on her statement. I am in firm support of her position. Although I support the basic aim of S. 559—to require cigarette packages to display a warning label regarding smok-

ing and health—I doubt that this label will help very much in achieving our overall aim. What we are really trying to do here is to educate the American people—and particularly young people—about the hazards involved in smoking. What we really want in the end is to discourage the consumption of cigarettes and, more particularly, to discourage young people from starting to smoke.

No doubt the presence of a warning on a package will make some difference, but it is really not enough. Lung cancer now kills 47,000 people a year in this country. The Public Health Service estimates that, in all, some 300,000 people die prematurely each year in this country as a result of one disease or another associated with cigarette smoking. The connection between cigarette smoking and premature death is established beyond controversy. Animal experiments, clinical and autopsy studies, and dozens of population studies have demonstrated this.

What I am concerned about, particularly, are the young people. Studies show that 5,000 youngsters in our country start smoking every day. By the time children reach the seventh grade—when they are past 12 years old—10 percent of them are already habitual smokers. And half of our young people are habitual smokers by the time they reach their last year in high school. The alarming fact is that if present smoking habits continue, 1 million of the children who are today in school in our country will develop lung cancer.

When we pass a bill, when we approve of proposed legislation, we have a responsibility. It is a responsibility that lies with each one of us.

Many of us in Congress have children who are still growing up. I should think we would want to do everything we can to protect the health of our children and of all the young people around the country who, influenced by massive advertising which portrays smoking as the smart, sophisticated thing to do, are taking up smoking and thereby acquiring a habit they may never be able to break.

In Congress and around the Nation we have spent a great deal of time talking and debating about American boys dying in South Vietnam. That of course is a very serious matter, for many reasons—yet our death toll in Vietnam so far is about 400. Should we not also be concerned and disturbed about a danger to our young people which is of far greater magnitude in terms of its direct potentiality for causing premature death? Should we not be doing everything possible to protect our young people from unwittingly subjecting themselves to massive susceptibility to a disease which kills nearly 50,000 people in this country every year?

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a report entitled "Health Hazards of Smoking," published by the Cigarette Cancer Committee of the Roswell Park Memorial Institute of the New York State Department of Health.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

HEALTH HAZARDS OF SMOKING

(Published by the Cigarette Cancer Committee, Roswell Park Memorial Institute of the New York State Department of Health, Dr. Hollis S. Ingraham, commissioner; Dr. George E. Moore, institute director; Dr. Morton L. Levin, chairman)

Some scientific bodies and governmental authorities who have made statements linking cigarette smoking with lung cancer and other health hazards:

STATE MEDICAL SOCIETIES

1. California State Medical Society, 1963.
2. Connecticut State Medical Society.
3. Medical Society of Delaware.
4. District of Columbia Medical Society.
5. Florida State Medical Society, 1963.
6. Hawaii Public Health and Medical Society.
7. Idaho State Medical Society.
8. Maine Medical Society.
9. Michigan State Medical Society.
10. New Jersey Medical Society.
11. New Mexico Medical Society.
12. New York State Medical Society, 1963.
13. North Dakota State Medical Association.
14. Pennsylvania State Medical Society.
15. South Dakota State Medical Association.
16. Utah State Medical Society, 1963.
17. Vermont State Medical Society.
18. Washington State Medical Association.

NATIONAL AGENCIES

United States

1. American Association for Thoracic Surgery.
2. American Cancer Society.
3. American College of Chest Physicians.
4. American Heart Association, 1963.
5. American Public Health Association, 1959.
6. Commissioner of Health, New York State, Herman E. Hilleboe, 1958.
7. Commissioner of Health, New York State, Hollis S. Ingraham, 1963.
8. Director, Department of Public Health, California, Malcom Merrill, 1963.
9. Michigan State Department of Health.
10. Ohio State Dental Association.
11. Oregon State Board of Health.
12. Surgeon General of the United States, Leroy E. Burney.
13. Surgeon General of the United States, Luther Terry, 1964.
14. Surgeon General's Advisory Committee on Smoking and Health.
15. Surgeon General, U.S. Air Force, R. L. Bohannon, 1962.
16. The Public Health Cancer Association, 1954.
17. U.S. Public Health Service.
18. U.S. Veterans' Administration.
19. World Health Organization Expert Committee, 1959.
20. Study Group on Smoking and Health, sponsored by the American Cancer Society (1957), American Heart Association, National Cancer Institute.

Foreign

1. British Medical Research Council, 1957.
2. British Ministry of Health, 1954.
3. Canadian Cancer Society.
4. Canadian Heart Association.
5. Canadian Medical Society, 1963.
6. Canadian Minister of National Health and Welfare.
7. Canadian Public Health Association.
8. Canadian Thoracic Society.
9. Danish Cancer Society.
10. Danish Medical Association.
11. Finland Medical Association.
12. Government of Italy.
13. Health Council of Holland.
14. Iceland Cancer Society.
15. International Union Against Cancer, Subcommittee on Tobacco and Air Pollution.
16. Joint Tuberculosis Council of Great Britain.

17. Medical Research Council of Great Britain.

18. National Cancer Institute of Canada.
19. Netherlands Ministry of Social Affairs, 1957.
20. Pacific Northwest Radiological Society.
21. Research Council of Sweden.
22. Royal College of Physicians, London, 1962.
23. Scotland Department of Health.
24. Swedish Medical Research Council, 1958.

EPIDEMIOLOGICAL EVIDENCE FOR A RELATIONSHIP BETWEEN CIGARETTE SMOKING AND LUNG CANCER

Vital statistics

1. For the past few decades, lung cancer death rates have been climbing rapidly. For example, in New York State in 1931-33, 5.04 males per 100,000 died of the disease. The death rate subsequently rose to 12.8 (1939-41), 27.6 (1949-51), and in 1961 reached 47.2. The 1961 rate is eight times the corresponding rate for 1931-33.
2. Within the past generation lung cancer has become one of the leading causes of death. According to National Office of Vital Statistics estimates in 1961, there were 42,230 deaths from cancer of the respiratory system while in the same year motor vehicle accidents accounted for 37,500 deaths.
3. Respiratory cancer strikes people in their productive years. In the United States in 1959, 20,330 of the 37,413 who died of respiratory cancer did so before reaching retirement age (65).

Retrospective studies

1. Over 30 retrospective studies throughout the world have shown that the risk of lung cancer is much greater for cigarette smokers than for nonsmokers. A recent Roswell Park Memorial Institute study shows the risk of lung cancer to be nine times higher for smokers than nonsmokers.
2. Few lung cancer patients are nonsmokers. At Roswell Park 98.2 percent of all patients with epidermoid cancer of the lung were smokers.

Prospective studies

1. All 7 prospective studies (in which smoking histories were obtained from persons who were healthy at the time they entered the study) have confirmed the earlier retrospective studies. In one nationwide U.S. study, the risk for cigarette smokers was 8.3 times that for nonsmokers.
2. The risk of lung cancer increases as the number of cigarettes smoked per day increases. In one nationwide study, the death rate from lung cancer per 100,000 was, respectively, 51.4 (less than one-half pack of cigarettes per day), 59.3 (one-half to one pack per day), 143.9 (one to two packs), and 217.3 (over two packs). For nonsmokers, the death rate was only 3.4 per 100,000.
3. Urban residence has been implicated in lung cancer. However, in both rural and urban areas, cigarette smokers have much greater risks of lung cancer than nonsmokers.

Prevention

A study just completed at Roswell Park Memorial Institute shows that the earlier one starts smoking and the longer he smokes, the higher is his risk of lung cancer. On the other hand, the longer the period for which the individual stops smoking, the lower is his risk of lung cancer. In fact, there is evidence from this and a previous study that risk for persons who have stopped 10 years or longer is reduced to just a little more than that for individuals who have never smoked.

EPIDEMIOLOGICAL EVIDENCE FOR A RELATIONSHIP BETWEEN CIGARETTE SMOKING AND HEART DISEASE

Earlier prospective studies

1. The death rate from coronary heart disease for cigarette smokers was 70 percent

higher than that for nonsmokers in a nationwide prospective American Cancer Society study. The differential was similar (63 percent) for Veterans' Administration policyholders.

2. In the ACS study, coronary heart disease accounted for almost half (44.6 percent) of all deaths. There were 3,361 deaths from this cause among cigarette smokers, whereas only 1,973 would have died if their age specific death rates had been the same as for men who never smoked.

3. Cigar smokers had a somewhat higher (28 percent) death rate from coronary artery disease than nonsmokers, but the rates for pipe smokers were about the same as those for nonsmokers.

Recent, prospective studies

1. The statistical association between heavy cigarette smoking and the occurrence of coronary artery disease was confirmed by prospective studies with members of industrial and fraternal organizations.
 2. In a study of 4,000 men (Albany, N.Y., and Framingham, Mass.) followed for 6 years, there was a threefold increase in mortality from coronary heart disease found in cigarette smokers who smoked more than one pack per day.
- There are many illness-causing agents found in tobacco smoke. Chemicals known as hydrocarbons are the causal substances in lung cancer while nicotine is related to the development of cardiovascular disease.

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1. Dorn, H. F.: "Tobacco Consumption and Mortality From Cancer and Other Diseases." Public Health Report 74: 581-593, July 1959.
2. Doyle, J. T.; Dawber, T. R.; Kannel, W. B.; Heslin, A. S.; and Kahn, H. A.: "Cigarette Smoking and Coronary Heart Disease—Combined Experience of the Albany and Framingham Studies." New England Journal of Medicine, 266: 796-801, April 19, 1962.
3. Hammond, E. C., and Horn, D.: "Smoking and Death Rates: Report on 44 Months of Follow-Up of 187,783 Men." J.A.M.A., 166: 1159-1172, 1294-1308, March 8 and 15, 1958.
4. Paul, O.; Lepper, M. H.; Ostefield, A.; MacMillan, A.; Pheian, W. H.; and Dupertuis, W.: "Coronary Heart Disease in an Industrial Population: A Prospective Study." Presented at 35th Scientific Sessions, American Heart Association, Cleveland, Ohio, October 1962.
5. Spain, D. M., and Nathan, D. J.: "Smoking Habits and Coronary Atherosclerotic Heart Disease." J.A.M.A., 117: 683-688, September 9, 1961.

EPIDEMIOLOGICAL EVIDENCE FOR A RELATIONSHIP BETWEEN CIGARETTE SMOKING AND OTHER DISEASES

1. Prospective studies based on patients and on followup of healthy smokers and nonsmokers to see who later develop the disease show that the risk of cancer of the bladder, larynx, esophagus, and mouth are from two to five times higher for cigarette smokers than for nonsmokers.
2. Nationwide studies in both the United States and England show that cigarette smokers have considerably more mortality from respiratory diseases, such as emphysema and bronchitis. A recent American prospective study shows the risk of smokers for these diseases to be over three times that of nonsmokers.

3. Two American prospective studies show that the relative death rate from coronary heart disease for smokers is about 60 percent greater than that of nonsmokers. The relative death rate from aneurysm and Buerger's disease for cigarette smokers was about three times that of nonsmokers.

4. At least three followup studies, including data from Roswell Park Memorial Institute, show that cigarette smokers have about three times the risk of death from stomach and duodenal ulcers.

5. The mortality rates from a number of studies of people who had never smoked were applied to the total population of the United States, whether they had smoked or not. This resulted in 250,000 fewer deaths annually from all causes, lung cancer, coronary disease, emphysema included than actually occurred. It is not unreasonable to expect that if the population of the United States became nonsmokers, this number of deaths would be avoided annually in the future.

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2. "The Occurrence of Lung Cancer in Man." Morton L. Levin, M.D.; reprinted from ACTA, International Union Against Cancer, V. IX, 1953.

3. "Etiology of Lung Cancer: Present Status." Morton L. Levin, M.D.; reprinted from New York State Journal of Medicine, volume 54, No. 6, March 15, 1954, pages 769-777.

4. "Smoking and Lung Cancer: A Review." Morton L. Levin, M.D.; reprinted from Proceedings of the Third National Cancer Conference, 1957, pages 473-478.

5. "Smoking and Lung Cancer." Morton L. Levin, M.D., and Paul R. Gerhardt, M.D.; reprinted from Physiopathology of Cancer, Freddy Homburger, editor, Hoeber-Harper, 1953-59.

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2. Dorn, H. F.: "Tobacco Consumption and Mortality From Cancer and Other Diseases." Public Health Report, 74: 581-593, July 1959.

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6. Higgins, I. T. T.: "Tobacco Smoking, Respiratory Symptoms, and Ventilatory Capacity. Studies in Random Samples of the Population." British Medical Journal 1: 325-329, February 7, 1959.

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EXPERIMENTAL EVIDENCE FOR A RELATIONSHIP BETWEEN CIGARETTE SMOKING AND LUNG CANCER

Painting of tars

1. Painting of the skin of mice with the cigarette smoke in condensate produces papillomas and cancers. These experimental results have been reproduced by a lengthy list of investigators.

2. In a recent study, about half of the mice that were painted with smoke equivalent to 8.3 cigarettes per day developed tumors and about one-third of them had cancers. Cancers were produced by all of the 11 brands of cigarettes studied.

3. The induction of tumors in experimental animals shows a dosage response relationship similar to that for lung cancer in human smokers. Also, if the exposure of animals to smoke is stopped, even after a long period of exposure—the incidence of cancer is greatly reduced.

4. Some of the cancer-producing chemicals in the smoke are produced when the tobacco is burned. Other cancer-producing chemicals are present in the unburned cigarette tobacco.

5. Both benign and cancerous growths have been induced in rats, rabbits, and dogs with cigarette smoke.

Inhalation studies

1. Efforts to produce lung tumors in experimental animals by direct inhalation of tobacco smoke have been unsuccessful because animals will not inhale smoke voluntarily.

2. At concentrations of smoke corresponding to that in the lungs of a human smoker, the animals suffer severe—often fatal—toxic effects.

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Dogs

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ECONOMIC ASPECTS OF CIGARETTE SMOKING

Sales

1. In 1950, Americans bought 360 billion cigarettes or 3,500 cigarettes for each person over the age of 18.

2. In 1963, Americans bought 510 billion cigarettes for an average consumption over age 18, of 4,350 per year.

3. In 1963, filter cigarettes made up 43 percent of the sales; regular cigarettes 22 percent; king size cigarettes 19 percent; and menthol cigarettes 16 percent.

4. In 1952, 78 percent of all cigarettes sold were regular cigarettes.

Taxes

1. Annually, the Federal Government collects in excess of \$3 billion in cigarette taxes.

2. Annually, New York State collects in excess of \$125 million in cigarette taxes.

Personal expenditures

1. If a married couple, age 20, who each smoke "one pack a day," will deposit in the bank the money they will spend on tobacco for the next 40 years, or until their 60th birthday, they will accumulate \$17,654.09.

General

1. In 1963, Americans spent over \$7 billion on cigarettes.

2. In 1963, a total of 16 States had cash receipts from tobacco in excess of \$3 million.

3. In North Carolina, almost 50 percent of the cash receipts from all farm commodities, is for tobacco.

4. Four leading tobacco producing States had cash receipts of \$971 million in 1963.

5. The price of the tobacco is supported by the Federal Government in much the same fashion as for other food products. Over \$190 million of tax money is spent annually to support the price of tobacco.

Fires

1. Annually, there are 200,000 fires caused by careless smoking and these lead to 1,200 deaths.

2. One-fourth of all home fires are caused by careless smoking.

3. Annually, property damage exceeds \$70 million in fires caused by careless smoking.

4. Twenty-one percent of deaths by fires are caused by careless smokers.

ADVERTISING

1. Advertising expenses for the leading six cigarette manufacturers increased from \$84.8 million in 1950 to \$236.4 million in 1960, or an increase of 179 percent. Two billion dollars was spent on cigarette advertising between 1952 and 1962.

2. The Federal Trade Commission, in its analysis of cigarette advertising, has stated the following:

(a) Between 1945 and 1960 the Commission completed seven formal cease-and-desist order proceedings against cigarette manufacturers involving medical or health claims made in their advertising. Many other proceedings have been settled informally.

(b) Specifically, the Commission is concerned with two ways in which cigarette advertising may be unlawfully misrepresenting or concealing the health hazards of smoking. First, the Commission has reason to believe that many current advertisements falsely state, or give the false impression, that cigarette smoking promotes health or physical well-being or is not a health hazard, or that smoking the advertised brand is less of a health hazard than smoking other brands of cigarettes.

(c) Second, the Commission has reason to believe that much current advertising suggests or portrays cigarette smoking as being pleasurable or desirable, compatible with physical health, fitness or well-being, or indispensable to full personal development and social success, without at the same time reminding the consumer of the serious health hazard of cigarette smoking. Such advertising may create a psychological and social barrier to the consuming public's understanding and appreciation of the gravity of the risks to life and health involved in cigarette smoking.

3. The Federal Government has controls to stop the sale of dangerous food and drugs, and which require labeling of harmful household items but has no control over cigarettes or cigarette advertising.

4. In 1962, cigarette companies accounted for 40 percent of major advertising appearing in college periodicals.

5. During a single evening time period, it is estimated that cigarette advertising reaches 38 percent of the U.S. population 18 years of age and over, 46 percent of the population 13 to 17, and 26 percent of the population 2 to 12.

6. Senator MAURINE B. NEUBERGER states in her book, "Smokescreen: Tobacco and the Public Welfare": "Even if there were no health claims, the mere continuation of massive cigarette advertising campaigns acts has an implied assurance or warranty of the safety of cigarettes."

"There are few people in public life for whom I harbor such unqualified admiration as LeRoy Collins, former Governor of Florida, now chief executive and staunch conscience of the National Association of Broadcasters. On November 19, 1962, at Portland, Oreg., Governor Collins lashed out angrily at the curtain of silence with which the broadcasting industry had cloaked its role in propagating cigarette advertising. Governor Collins told his audience of broadcasters:

"It is my personal view that our (radio and television) codes should be much more than sets of legalistic standards and delineations of good taste and estimated public tolerance.

"For example, if we are honest with ourselves, we cannot ignore the mounting evidence that tobacco provides serious hazards to health. Can we either in good conscience ignore the fact that progressively more and more of our high school age (and lower) children are now becoming habitual cigarette smokers? We also know that this condition is being made continually worse under the promotional impact of advertising designed primarily to influence young people.

"Certainly the moral responsibility rests first on the tobacco manufacturer. Certainly it also rests on the advertising agencies. Certainly it also rests on the outstanding sports figures who permit their hero status to be prostituted.

"When others have persistently failed to subordinate their profit motives to the higher purpose of the general good health of our young people, then I think the broadcaster should make corrective moves on his own."

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LIFE INSURANCE ASPECTS OF CIGARETTE SMOKING

Differential risks

1. The differential risks with respect to cigarette smoking are well established by massive evidence. One of the major studies followed nearly 200,000 policyholders of U.S. Government life insurance.

2. The chance of American men 35 years of age dying before age 65 is almost twice as great for heavy smokers as for nonsmokers. Thus according to recent estimates 23 percent of nonsmokers will die during the 30-year period while 41 percent of the persons smoking two or more packs per day could be expected to die in a corresponding period.

3. The excess risk of death and disease for heavy smokers is considerably greater than many of the excess risks for which extra premiums have been charged.

Differential premiums

1. The Executive Life Insurance Co. (California) offers a 5-percent discount on premium to nonsmokers who are at least 30 years of age. They must sign a statement that they have never smoked.

2. The Fortune National Life Insurance Co. (Wisconsin) offers a premium differential. At age 25, the annual premium for each \$1,000 is \$11.01 for nonsmokers and \$12.95 for smokers.

3. The Great American of Dallas (Texas), for nonsmokers guarantees an extra 20-percent death benefit of as much more as actuarial experience will allow.

4. State Mutual Life Assurance (Massachusetts), at age of 35, premiums are reduced for nonsmokers \$0.60 per \$1,000 of insurance.

Committee recommendations

1. That insurance companies recognize the validity of lower premiums for nonsmokers.

2. That the health hazards of smoking be included in their health educational programs.

Reference

Medical Bulletin on Tobacco; 1: No. 1, winter, 1962-63.

GOVERNMENTAL ASPECTS OF CIGARETTE HAZARDS

Throughout the world, many governmental agencies have become convinced of the health hazards of cigarette smoking and have taken steps to inform their populations regarding these dangers. This has been true, for example, in England, Canada, Denmark, the Netherlands, Scotland, Norway, and the United States, and others. Some governments have enacted regulations bearing on the advertising of cigarettes. Italy, for example, has banned all cigarette advertising. In Great Britain cigarette advertising on radio and television is limited to the late evening hours.

In the United States, legislation has been sought in such States as Nebraska, New York, New Mexico, California, Michigan, Oregon, Florida, and others, proposing public health measures designed to control cigarette consumption. On the Federal level, bills have been introduced by a large number of Senators and Congressmen over the last few years providing for the labeling of cigarettes as to their tar and nicotine content and their hazards to health. Some of these bills also called for research on current smoking habits, ways of reducing smoking, developing effective smoking withdrawal clinics, and public educational campaigns. All have been stalled in legislative committees chaired by Congressmen from States which depend economically on tobacco production.

Many State health departments have issued informative literature giving details of the scientific findings linking cigarette consumption to illness and death from a number of causes. The Surgeon General of the U.S. Air Force has instituted an educational campaign to provide the same data to servicemen. Two Surgeons General of the United States have taken similar steps, and the current Surgeon General sponsored the large-scale evaluation of all the scientific findings available which was published in early 1964. This same Surgeon General, Luther Terry, in the summer of 1964, testified before Congress that the Public Health Service should undertake educational and research programs designed to reduce smoking. To this end, nationwide surveys of physicians and the general population are underway.

The Federal Trade Commission in June 1964 enacted rules which demand that the hazards of using tobacco be noted on each package of cigarettes sold as of July 1, 1965. The Commission expects, however, that many tobacco companies will challenge this regulation, and that the resulting court actions will postpone compliance for a few years.

EXCERPTS FROM THE REPORT OF THE ADVISORY COMMITTEE TO THE SURGEON GENERAL

In previous studies, the use of tobacco, especially cigarette smoking, has been causally linked to lung cancer and other diseases, notably coronary artery disease, chronic bronchitis, and emphysema. These widely reported findings, which have been the cause of much public concern over the past decade, have been accepted in many countries by official health agencies, medical associations, and voluntary health organizations.

The potential hazard is great because these diseases are major causes of death and disability. In 1962, over 500,000 people in the United States died of arteriosclerotic heart disease (principally coronary artery disease), 41,000 died of lung cancer, and 15,000 died of bronchitis and emphysema. Deaths from some of these diseases have been increasing with great rapidity over the past few decades.

Cigarette smoking is associated with a 70-percent increase in the age-specific death rate of males, and to a lesser extent with increased death rates of females. The total number of excess deaths causally related to cigarette smoking in the U.S. population cannot be accurately estimated. In view of the continuing and mounting evidence from many sources, it is the judgment of the Committee that cigarette smoking contributes substantially to mortality from certain specific diseases and to the overall death rate.

On the basis of prolonged study and evaluation of many lines of converging evidence, the Committee makes the following judgment:

Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action.

Cancer

Lung cancer:

Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.

The risk of developing lung cancer increases with duration of smoking and the number of cigarettes smoked per day, and is diminished by discontinuing smoking. In comparison with nonsmokers, average male smokers of cigarettes have approximately a ninefold to tenfold risk of developing lung cancer and heavy smokers at least a twentyfold risk.

The risk of developing cancer of the lung for the combined group of pipe smokers, cigar smokers, and pipe and cigar smokers, is greater than for nonsmokers, but much less than for cigarette smokers. The data are insufficient to warrant a conclusion for each group individually.

Oral cancer:

The causal relationship of the smoking of pipes to the development of cancer of the lip appears to be established.

Although there are suggestions of relationships between cancer of other specific sites of the oral cavity and the several forms of tobacco use, their causal implications cannot at present be stated.

Cancer of the larynx: Evaluation of the evidence leads to the judgment that cigarette smoking is a significant factor in the causation of laryngeal cancer in the male.

Cancer of the esophagus: The evidence on the tobacco-esophageal cancer relationship supports the belief that an association exists.

Cancer of the urinary bladder: Available data suggest an association between cigarette smoking and urinary bladder cancer in the male but are not sufficient to support a judgment on the causal significance of this association.

Respiratory diseases

Cigarette smoking is the most important of the causes of chronic bronchitis in the United States, and increases the risk of dying from chronic bronchitis.

A relationship exists between pulmonary emphysema and cigarette smoking but it has not been established that the relationship is causal. The smoking of cigarettes is associated with an increased risk of dying from pulmonary emphysema.

For the bulk of the population of the United States, the importance of cigarette smoking as a cause of chronic bronchopulmonary disease is much greater than that of atmospheric pollution or occupational exposures.

Cough, sputum production, or the two combined are consistently more frequent among cigarette smokers than among non-smokers.

Cigarette smoking is associated with a reduction in ventilatory function. Among males, cigarettes smokers have a greater prevalence of breathlessness than nonsmokers.

Cardiovascular disease

Smoking and nicotine administration cause acute cardiovascular effects similar to those induced by stimulation of the autonomic nervous system, but these effects do not account well for the observed association between cigarette smoking and coronary disease. It is established that male cigarette smokers have a higher death rate from coronary disease than nonsmoking males. The association of smoking with other cardiovascular disorders is less well established. If cigarette smoking actually caused the higher death rate from coronary disease, it would on this account be responsible for many deaths of middle aged and elderly males in the United States. Other factors such as high blood pressure, high serum cholesterol, and excessive obesity are also known to be associated with an unusually high death rate from coronary disease. The causative role of these factors in coronary disease, though not proven, is suspected strongly enough to be a major reason for taking countermeasures against them. It is also more prudent to assume that the established association between cigarette smoking and coronary disease has causative meaning than to suspend judgment until no uncertainty remains.

Male cigarette smokers have a higher death rate from coronary artery disease than non-smoking males, but it is not clear that the association has causal significance.

Other conditions

Peptic ulcer: Epidemiological studies indicate an association between cigarette smoking and peptic ulcer which is greater for gastric than for duodenal ulcer.

Cirrhosis of the liver: Increased mortality of smokers from cirrhosis of the liver has been shown in the prospective studies. The data are not sufficient to support a direct or causal association.

Maternal smoking and infant birth weight: Women who smoke cigarettes during pregnancy tend to have babies of lower birth weight. Information is lacking on the mechanism by which this decrease in birth weight is produced. It is not known whether this decrease in birth weight has any influence on the biological fitness of the newborn.

Smoking and accidents: Smoking is associated with accidental deaths from fires in the home.

Habituation: The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined. This does not rule out physiological factors, especially in respect to habituation, nor the existence of predisposing constitutional or hereditary factors.

SMOKING WITHDRAWAL CLINICS

In August 1963, smoking withdrawal research clinics were first started. The initial concept was the development of a simple,

effective way to help those who wish to quit smoking give up cigarettes. Medications were used, mainly lobeline.

It became obvious that the success rate for smoking withdrawal was quite high; in the neighborhood of 80 percent of the participants being able to give up smoking completely. Those who received lobeline consistently had a better record of smoking withdrawal than those who did not. Also, those who were able to stop abruptly had a much higher success rate than those who tried to taper off. The idea that, if one could stop smoking for about 1 month they would be more or less over the edge, and no longer have a desire for cigarettes, proved to be a poor concept. As time went on, more and more participants went back to cigarette smoking and very shortly the difference that existed between the treated group and the nontreated group disappeared. At the end of 6 months, only 15 percent of the original participants were still not smoking, and there was no difference whatsoever between the treated group and the nontreated group.

Studies of the participants have revealed that, although there is some slight physical reaction to smoking withdrawal, the major problem is habituation and, therefore, of a psychological nature. It is very difficult, for even those who wish to give up cigarette smoking, to accomplish this permanently. Psychological studies on participants in the clinic have shown that those who had the most normal psychological index were the ones that were most successful in quitting. These results indicate that the attitude expressed by "I'll smoke for 3 or 4 years and then quit" is one that may lead to a situation where withdrawal may be difficult or even impossible.

PREVENTIVE MEASURES FOR SMOKERS

Tobacco "addiction"

1. There are various preventive measures that an individual who is a heavy smoker can take on his own initiative which will reduce his risks of death from lung cancer and other diseases. So far as it is known, the best measure is to stop smoking. This will cut the excess risk (all causes) in half. The risk of developing lung cancer is reduced proportionally with each year the individual does not smoke.

2. Even if they wish to do so, many heavy cigarette smokers are unable to reduce the amount of their smoking or to stop smoking. The extent of this "addiction" is often striking. Some patients continue to smoke even after they have undergone extensive surgery on larynx, lung, or other organs.

3. Because of this "addiction" it is best to persuade young people not to start smoking than to attempt to change the smoking habits of confirmed smokers.

Recommendations for cigarette smokers

1. If possible, stop smoking.
2. Switch to pipes or cigars (and don't inhale).
3. Smoke less—preferably less than one-half pack each day.
4. Don't inhale.
5. Use filter tip cigarettes (or filter).
6. When a cigarette burns down to within 2 inches of the lips—put it out.

EDUCATION

When one takes into account heart disease, cancer, and lung disease, there may well be over 180,000 premature deaths every year caused by smoking. Some regard the hazards of smoking as the greatest public health problem of known cause in the country today. Every day 5,000 youngsters, encouraged by cigarette advertisement and confused by relative parental and governmental indifference, adopt this habit. Reliable surveys indicate that 10 percent of 7th-grade students are habitual smokers and that by the time they reach the 12th grade, 50 percent of the class are habitual smokers. If present

smoking habits continue, it is predicted that 1 million of today's schoolchildren will develop cancer of the lung in the course of their lifetime.

The experience of the Roswell Park Memorial Institute Smoking Withdrawal Research Clinic confirms the opinion that if a person is to be a nonsmoker, he should never start the habit. Hundreds of patients attended this clinic with a strong desire to stop smoking. Eighty percent of these people found that even with the best medical treatment and encouragement available, they could not stop smoking.

Some governmental agencies and national health organizations, such as the American Cancer Society and the New York, Michigan, California, and Maine Public Health Departments, have embarked on well-planned smoking educational programs. However, conflicts of interest as well as political and economic expedience have encouraged most governmental agencies to disqualify themselves as being authorized to cope effectively with the problems of smoking and health. A notable exception to this is the Federal Trade Commission which has instituted rulings requiring cigarettes to be labeled as to content and hazard. It is conceded that the great resources of the tobacco industry will be used to contest these rulings and to block them with legal maneuvers for the next several years.

The need for local cooperation and initiative is underlined by the fact that there will be a prolonged delay before national educational programs on smoking are forthcoming. Physicians realize that even with modern techniques the diseases caused by smoking are much easier to prevent than they are to cure. Physicians are also aware that the habits and behavior of young people are greatly influenced by the public health instructions they receive in the schools from teachers with whom they have close personal contact.

We desire to support the interests and activities of educators in every way possible. We feel the problems related to smoking warrant the closest attention of students, parents, teachers, legislators, and physicians.

Sensing the urgency of this health problem, the Cigarette Cancer Committee of the Roswell Park Memorial Institute has compiled a basic curriculum on smoking and health. This basic curriculum is available at no charge from the Roswell Park Memorial Institute along with the necessary supplementary visual aids.

In addition to this simple classroom educational program, there are many effective steps that can be taken by parents, teachers, and students to cause an awareness of the smoking and health problem. Some of these are listed as follows:

Student council:

1. Student leadership to plan group discussion among students.
2. Regional youth conference of student body leaders on smoking and health.
3. To conduct a survey of the opinions of community physicians, teachers, and parents on the smoking-and-health problem and to determine their smoking habits.

English department:

Discuss the following:

1. The economics of the tobacco industry.
2. Smoking as a habit or addiction.
3. When did women start to smoke?
4. Why do people smoke?
5. The relation of smoking to bodily injury and property loss by fires.
6. Cigarette advertising, a study in public deception.

Science department: 1. To conduct science exhibits and experiments that demonstrate the harmful effects of cigarette smoke.

Art department: 1. To develop satirical posters about smoking and cigarette advertising.

Speech department: 1. To arrange for a teenage panel on local radio or television to discuss the smoking problem as it applies to students.

Health education department:

1. To discuss the effects smoking has upon the heart, lungs, and blood vessels.

2. Discuss smoking as related to athletics. Parents:

1. Discuss the smoking problem as it relates to parents and youth.

2. Family group discussion on the undesirable aspects of smoking.

3. Discuss means of implementing effective smoking education programs in the local school districts.

4. Discuss means of making local Senators and Congressmen aware of the concern parents have about the smoking problem.

ABOUT THE CIGARETTE CANCER COMMITTEE

On July 20, 1962, a group of clinicians and scientists on the staff of Roswell Park Memorial Institute met for the purpose of accelerating and coordinating various biological, epidemiological, and educational programs being carried out independently by members of the staff since 1950. Dr. Morton Levin was elected chairman of a formal committee designated "Cigarette Cancer Committee." This title was chosen to emphasize the differential danger of one kind of tobacco use—cigarette smoking—and a predominant interest in the relationship of smoking to cancer.

The committee members and their assignments are:

Morton Levin, M.D., chairman; chief, department of epidemiology. Assignment: epidemiology.

Julian Ambrus, M.D., Ph. D.; principal scientist, experimental biology. Assignment: pharmacology.

Fred Bock, Ph. D.; associate scientist. Assignment: biochemistry.

Irwin Bross, Ph. D.; chief, department of statistics. Assignment: statistics and correspondence.

Marshall Duguay, M.S.; speech therapist. Assignment: education.

Saxon Graham, Ph. D.; associate scientist, epidemiology. Assignment: statistics and legislation.

David Harker, Ph. D.; director, departments of biophysics and research. Assignment: adult education.

Brian Hellar, M.A.; sociologist. Assignment: smoking withdrawal clinic.

James Holland, M.D.; chief, department of medicine. Assignment: adult education (cardiovascular disease).

Arnold Mittelman, M.D.; associate cancer research surgeon. Assignment: cardiovascular disease.

George E. Moore, M.D., Ph. D.; institute director and chief of surgery. Assignment: biological research and adult education.

Dorothy Nelson, New York State Department of Health Smoking; education committee representative.

John Pickren, M.D.; chief, department of pathology. Assignment: pathology.

Charles Ross, M.D.; chief, department of thoracic surgery. Assignment: clinical studies.

Raymond Shamberger, Ph. D.; senior cancer research scientist. Assignment: cigarette formulation.

Ronald Vincent, M.D.; associate chief, departments of thoracic and surgery. Assignment: education (primary and secondary schools).

Mr. KENNEDY of New York. Mr. President, the report contains a list of scientific bodies and Government authorities who have made statements linking cigarette smoking with lung cancer and other health hazards. They are as follows:

STATE MEDICAL SOCIETIES

California State Medical Society, 1963.
Connecticut State Medical Society.
Medical Society of Delaware.
District of Columbia Medical Society.
Florida State Medical Society, 1963.
Hawaii Public Health and Medical Society.
Idaho State Medical Society.
Maine Medical Society.
Michigan State Medical Society.
New Jersey Medical Society.
New Mexico Medical Society.
New York State Medical Society, 1963.
North Dakota State Medical Association.
Pennsylvania State Medical Society.
South Dakota State Medical Association.
Utah State Medical Society, 1963.
Vermont State Medical Society.
Washington State Medical Association.

NATIONAL AGENCIES

United States

American Association for Thoracic Surgery.
American Cancer Society.
American College of Chest Physicians.
American Heart Association, 1963.
American Public Health Association, 1959.
Commissioner of health, New York State, Herman E. Hilleboe, 1958.
Commissioner of health, New York State, Hollis S. Ingraham, 1963.
Director, department of public health, California, Malcolm Merrill, 1963.
Michigan State Department of Health.
Ohio State Dental Association.
Oregon State Board of Health.
Surgeon General of the United States, Leroy E. Burney.
Surgeon General of the United States, Luther Terry, 1964.
Surgeon General's Advisory Committee on Smoking and Health.
Surgeon General, U.S. Air Force, R. L. Bohannon, 1962.
The Public Health Cancer Association, 1954.
U.S. Public Health Service.
U.S. Veteran's Administration.
World Health Organization Expert Committee, 1959.
Study group on smoking and health, sponsored by the American Cancer Society (1957), American Heart Association, National Cancer Institute.

Foreign

British Medical Research Council, 1957.
British Ministry of Health, 1954.
Canadian Cancer Society.
Canadian Heart Association.
Canadian Medical Society, 1963.
Canadian Minister of National Health and Welfare.
Canadian Public Health Association.
Canadian Thoracic Society.
Danish Cancer Society.
Danish Medical Association.
Finland Medical Association.
Government of Italy.
Health Council of Holland.
Iceland Cancer Society.
International Union Against Cancer, Subcommittee on Tobacco and Air Pollution.
Joint Tuberculosis Council of Great Britain.
Medical Research Council of Great Britain.
National Cancer Institute of Canada.
Netherlands Ministry of Social Affairs, 1957.
Pacific Northwest Radiological Society.
Research Council of Sweden.
Royal College of Physicians, London, 1962.
Scotland Department of Health.
Swedish Medical Research Council, 1958.

There really can be no argument about cancer being caused by cigarette smoking and about cigarette smoking being the cause of death of many of our fellow citizens, so there really can be no argu-

ment about the proposition that we should be doing everything we possibly can to protect youngsters from acquiring a habit that may lead to their premature death.

I see no reason at this time to go into all the details of the scientific and medical proof as to smoking and health. The overwhelming statistics based on extensive population studies, the careful laboratory experiments, and the studies of human tissue and cells have made the point—and the point has been amply publicized.

What I want to concentrate on are the merits of a most curious provision contained in S. 559. In addition to its labeling requirement, which is all to the good, the bill would deprive the States and all Federal agencies, for a 3-year period, of the power to require any statement relating to smoking and health in the advertising of cigarettes.

Mr. President, that is something that I cannot understand. After all the study that has occurred, going as far back as 1939, and intensified in 1954, and over the period of at least the last 10 years, we know there is a direct relationship between smoking and the death of citizens.

This matter has had a large and major effect on the families of many of us in Congress. It has had a major effect on the lives of many of our friends, people whom we know and people whom we do not know.

We have an opportunity in this instance to do something about this matter and take some action after the subject has been debated over the period of at least the last 10 years.

But some of us are unwilling to take action and want to put the matter off. To put it another way, as the Senator from Oregon [Mrs. NEUBERGER] pointed out so forcefully, the only reason that we are facing opposition to her amendment is that the cigarette lobby is a very strong lobby.

Mr. BASS. Mr. President, the Senator from New York has stated that the labeling provision is a good provision. I agree with him. I support that provision of the measure.

The Senator has had much experience in the field which concerns the protection of the laws of the country. Does the Senator know of any other item in the Nation, in any area, concerning which there are certain warnings as to hazards inherent in the use of the item, whether it be accidental or otherwise, in which, if the manufacturer advertises his commodity, he is required to make the affirmative statement, "We want you to buy our product, but if you use, it might kill you"?

Mr. KENNEDY of New York. Mr. President, I am glad the Senator asked me that question. I have a list of such cases.

Mr. BASS. Mr. President, I should like the Senator to read some of them.

Mrs. NEUBERGER. Mr. President, whose time are we using?

The PRESIDING OFFICER (Mr. HARRIS in the chair). We are on time which is under the control of the Senator from Oregon.

Mrs. NEUBERGER. Mr. President, I did not yield to the Senator.

Mr. MORTON. Mr. President, I yield 3 minutes to the Senator from Tennessee.

Mr. KENNEDY of New York. Mr. President, disclosure in advertising of dangers to health and safety from the use of such products has been required by the Federal Trade Commission in a number of cases.

Mr. BASS. The Senator is reading me the law. Would the Senator give me a specific item that is being used and advertised over the radio and television in the advertising of which item they must say on the radio or television: "This product is dangerous or hazardous if you purchase it."

Mr. KENNEDY of New York. I shall, if the Senator will give me a chance. I want to read this so that the Senator will understand it.

Mr. BASS. Mr. President, we know the law.

Mr. KENNEDY of New York. I was simply making a general statement before giving examples.

For example, in *Earl Aronberg v. FTC*, 132 F. 2d 165 (7th Cir. 1942), the court upheld a Commission order prohibiting advertisements for a medicinal preparation for female ailments which failed to reveal that use of the product might produce gastro-intestinal disturbances, severe toxic and circulatory abnormalities, and, in pregnancy, violent poisonous effects.

Mr. BASS. Mr. President, I appreciate the doctor giving me all of those statistics.

Mr. KENNEDY of New York. Mr. President, in *American Medicinal Products, Inc. v. FTC*, 136 F. 2d 426 (9th Cir. 1943), a Commission order was upheld which forbade the use of advertisements for an obesity remedy which failed to disclose that the products might result in serious injury to health. In *Consolidated Royal Chemical Corp. v. FTC*, 191 F. 2d 896 (7th Cir. 1951), the court upheld a Commission order requiring an advertising warning that a cold remedy containing potassium iodide was dangerous when the user suffered from tuberculosis or typhoid disease.

Mr. BASS. Mr. President, I refuse to yield any further time. The Senator from New York is not answering my question.

Mr. KENNEDY of New York. Mr. President, do I have the floor?

Mr. CLARK. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. Mr. President, which Senator has the floor?

The PRESIDING OFFICER. The Senator from Kentucky [Mr. MORTON] yielded 3 minutes to the Senator from Tennessee for the purpose of asking questions to be answered by the Senator from New York.

Mr. KENNEDY of New York. Mr. President, I shall finish answering the question if I am given the opportunity.

Mr. BASS. Mr. President, if the Senator from New York would let me say—

Mr. KENNEDY of New York. I should like to answer the question.

Mr. BASS. The Senator is filibustering instead of answering questions.

Mr. KENNEDY of New York. The Senator from Tennessee was kind enough to ask the Senator from New York a question. I expressed my pleasure concerning this.

The PRESIDING OFFICER. The question has now become academic. The time of the Senator from Tennessee has expired.

Mr. BASS. One should never ask a lawyer a question.

Mr. KENNEDY of New York. Mr. President, I was talking about the cigarette lobby, which, incidentally, spends more than \$300 million each year on advertising cigarettes.

Let us make no mistake about the meaning of the 3-year delay provision in S. 559. As we are debating this matter, the House is considering a version of this bill which would keep the Federal Trade Commission and State and local authorities out of the area of cigarette advertising not just for 3 years, but for all time. That provision is what the cigarette industry really wants.

If we do not act today to let the American people know that we will not stand for this blatant interference with the efforts of Federal agencies and State and local authorities to protect the health of American consumers, we may well end up, after conference, with a bill which is far worse than the 3-year moratorium now contained in S. 559.

True, the Senate Commerce Committee wisely stated on page 6 of its report that, apart from the 3-year moratorium on an affirmative requirement of a warning on cigarette advertising, the FTC "retains its full authority, under section 5 of the Federal Trade Commission Act, to regulate unfair or deceptive acts or practices with respect to cigarette advertising," and the Committee went on to say that it "firmly believes that the Federal Trade Commission should regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which tends to negate the warning which must be placed on the package in accordance with the bill."

Nevertheless, there is no justifiable reason, medical or scientific, for any moratorium whatever. The Senator from Oregon [Mrs. NEUBERGER] settled upon a 1-year delay as a compromise in drafting her amendment, and perhaps during that year we will accumulate some useful experience with the labeling requirement of S. 559. But there is no reason for the Congress to impose a delay of any longer than 1 year.

As Senators know, the Federal Trade Commission conducted full hearings on this matter in 1964 and promulgated a trade regulation rule which, absent congressional action, would go into effect this July 1.

The Commission found that cigarette advertising that fails to disclose the health hazards of cigarette smoking is unfair and violates the laws administered by the Commission. It has never been shown that the Commission's de-

termination, based on what the Commerce Committee in its report on S. 559 termed an "exhaustive examination of advertising, labeling, and other promotional practices in the cigarette industry," was erroneous or unfounded, or beyond the Commission's authority to make. The Commission has frequently required manufacturers of dangerous products, especially drugs, to disclose the dangers in their advertising or else stop advertising. The cigarette proceeding thus represents merely the application of established principles to the particular facts of cigarette marketing, and is a lawful and proper exercise of the authority delegated by Congress to the Commission. The only thing unique about this proceeding is the gravity and magnitude of the dangers posed by cigarette smoking.

Let me say, in further answer to the point raised by the Senator from Tennessee, that if the Commission acted unfairly, if the Commission does not have any legal right to take the kind of action they intend to take, the cigarette companies can go to court and argue that before the court. The Commission's determination is subject to full judicial review; any cigarette manufacturer may obtain a ruling from the courts on the legality of the Commission's rule before he can be compelled by the Commission to comply with it.

I understand from the chairman of the Commission that it might take 4 years to litigate this matter. The cigarette companies might have at least 4 years' delay because of this litigation. That is certainly ample time for scrutiny and, if warranted, reconsideration of the Commission's determination that a health statement should be required in cigarette advertising. If the Congress enacts the 3-year delay that is mentioned in the bill, the total time would be 7 years, since the litigation would not begin until the Commission ordered compliance with its rule.

If 300,000 people die each year from diseases associated with smoking, in 7 years that would be 2,100,000 deaths.

I believe that is an important matter that perhaps we should all consider.

Mr. BASS. Mr. President, will the Senator yield at that point?

Mr. KENNEDY of New York. I cannot yield.

Mr. MORTON. Mr. President, I yield 2 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from New York has the floor, but 2 minutes are yielded to the Senator from Tennessee.

Mr. BASS. I shall tell him a question, then.

Mr. KENNEDY of New York. Mr. President, will the Senator give me a little time in which to answer it?

Mr. BASS. On his own time.

Mr. KENNEDY of New York. That is agreeable.

Mr. BASS. Mr. President, I am not questioning the right of the Federal Trade Commission to enter into certain prohibitions as far as advertising of any kind is concerned. That is their business. That is their prerogative. They

were created by Congress for that purpose.

I do not question their right to take, as a basis for their decision, the Surgeon General's report.

I was trying to get the Senator to name me a condition which involved the advertising of an accepted American product which required the manufacturer to make the overt statement that their product is dangerous to health.

The Federal Trade Commission has the right, under their laws, as was read by the Senator, under previous cases, in which they can actually say: "You cannot advertise tobacco." The matter could go to the court if the tobacco industry wanted to pursue that course of action.

If the Senator from New York says we should ban the use of all tobacco products, that is his privilege. If that is his view, I do not question his right to have that view. But so long as tobacco is not prohibited from entering the American market, so long as it is accepted as a product used for smoking, it is entirely punitive to make any company which advertises its products contradict its views as shown in the advertising. I believe a 1-year moratorium is not enough to give an opportunity to make further research into this area. A 3-year period is provided in the bill, and the Senator has pointed out that if the issue goes to court, it will be 7 years before this regulation can be put into effect.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY of New York. Mr. President, does the Senator from New York have the floor?

The PRESIDING OFFICER. The Senator from New York has the floor. He may proceed on his own time.

Mr. KENNEDY of New York. This is not the first time, as the Senator from the State of Tennessee knows, that this subject has been brought up. We have been discussing this subject for some time. The first time that a report was made was in 1939. A great number of findings were published in 1954, 10 or 11 years ago. There has been ample time for the cigarette companies to have taken remedial steps. They have done nothing. The Senator asked for some specific examples. I gave some. I shall be glad to give him a few more.

Mr. HARTKE. Mr. President, will the Senator yield for one question?

Mr. KENNEDY of New York. No. I would like to answer the question.

There have been Commission orders requiring warnings in advertisements with respect to the use of certain laxatives by persons suffering from appendicitis. Those orders have been upheld by the court. In advertisements for these laxatives the Federal Trade Commission has required that it should be stated that laxatives might be dangerous if used by persons suffering from appendicitis or who might possibly be suffering from appendicitis.

There have been orders with respect to the use of hearing aids which can cause serious injury under certain conditions. There have been orders with respect to ozone generators used in the

treatment of lung disease, requiring a warning of the dangers of using such generators too often.

There have been orders with respect to the dangerous side effects of analgesic preparations, arthritis remedies, and blood tonics.

There have been orders with respect to drugs used for headaches. There have been orders with respect to kidney medicines. There have been many others.

So the Federal Trade Commission's action in this area has not been confined to just a few cases. This is not an unprecedented action. There are many precedents for the action that the Federal Trade Commission proposes to take. If what the Federal Trade Commission is going to do is wrong, the companies can take the issue to court, and they will probably have 4 years more before a decision is made.

But what the Senator from Oregon is concerned about, what I am concerned about, and what many other persons are concerned about, is that the advertising which will go on in the meantime is directed toward young people. I am not talking about people who are already smokers. They perhaps will continue to smoke. We are concerned with the 5,000 youngsters who start smoking every day. The advertising is aimed clearly at young people, telling them, that in order to be sophisticated and "up," they have to start smoking. If the cigarette companies would say, "You can start smoking, but this is the danger involved," that would be all right. But to portray all the attractions of smoking and to convince young people to smoke, and then to put a little label on the package—that is not nearly enough.

Mr. HARTKE. Mr. President, will the Senator yield? I do not wish to become involved in the time situation.

Mr. KENNEDY of New York. I yield 1 minute to the Senator from Indiana.

Mr. HARTKE. I wish to make a few statements. I shall come back to the question concerning the authority of the Federal Trade Commission. I do not agree with my friend that the Federal Trade Commission has all the authority that would be exercised. I wish to comment on that. I do not wish to do it now, with the time limitation, but I shall take it up later.

Mr. KENNEDY of New York. The Senator can take it up later, but if the Senator believes as he does, why not leave it to the courts if the authority of the Federal Trade Commission to do this is lacking? If the FTC is making mistakes, why not let the courts decide?

Mr. HARTKE. The Senator raises a key issue.

Mr. KENNEDY of New York. I am speaking on my time, if the Senator will permit me.

Mr. HARTKE. I beg the Senator's pardon.

Mr. KENNEDY of New York. During that period the courts can enjoin the Federal Trade Commission until a final determination is made. As we all know, and as the chairman of the Commission has said, it may be up to 4 years before a final determination is made. The cig-

arette companies are not going to suffer in that period of time. Why add an additional 3-year delay?

I do not know of any other action on the floor of the Senate similar to this. Why are we so anxious to protect the cigarette industry? Was anybody protecting the ozone industry, or the analgesic balm industry? No.

The public interest requires prompt, indeed immediate, steps to assure that cigarette advertising is fair and truthful. Nearly 50,000 Americans are dying every year of lung cancer, a disease of which cigarette smoking is by general agreement a substantial cause. Hundreds of thousands more are dying of other diseases, either caused by or significantly associated with cigarette smoking. The Commission found that advertising has played a significant role in preventing the American people, and especially our children and teenagers, from understanding and appreciating the serious health risks involved in cigarette smoking. Realistically, therefore, failure to deal effectively with cigarette advertising must be recognized as an indirect but substantial cause of thousands of unnecessary deaths each year that action is delayed. The Commission's expert judgment is that it is essential to stop cigarette advertising that does not warn the public of the dangers of the product. To disregard that judgment, and tie the Commission's hands for 3 years, is to close one's eyes to a fearful toll of disease and death which 3 years of unrestricted cigarette marketing will produce. Surely the stakes are too high to justify such a wait-and-see attitude.

At a time when we in Congress are moving ahead to provide more and more legislation to protect the American consumer, I hope we are sufficiently enlightened not to take the backward step which the 3-year delay represents.

Mr. PASTORE. Mr. President, will the Senator yield me 2 minutes?

Mrs. NEUBERGER. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. I agree very much with what the Senator from New York has said. I said before the committee very much what he is saying on the floor this afternoon.

The fact of the matter is that if the people of this country, and particularly the Congress of the United States, are aware of the danger to the extent that they are bringing up this legislation, why should we not tell the young people the dangers involved? Why do only a half measure? If we have reached the point where the Surgeon General of the United States of America has said that there is peril involved, that habitual smoking of cigarettes may lead to cancer of the lung, if it is true and we are concerned enough that we are proposing that the danger be printed on cigarette packages, why not let us tell the people by the media of advertising?

The reason for this proposal is a practical reason. The practical reason is that cigarettes can be advertised. The whole world can be told to buy them. Then we hope that when people buy them they will be informed that they can injure their health. We are inconsistent.

I agree with the Senator from New York. If we are going to do this at all, we ought to do it all the way. If we are not right, if cigarette smoking is not dangerous to health, we ought not to bother with the problem. But if we recognize the problem, and if we listen to the highest medical authority in the country, and cannot believe the Surgeon General of the United States, whom are we going to believe?

I am aware of the economics involved. I am sorry that some people will lose their jobs. I am sorry that the profits of the tobacco industry will be hurt. I am sorry we shall not have advertisements on television that say "Up, up, up—cooler, cooler, cooler"; but if smoking is hurting the health of the people of America, we should go the whole way.

I say that we should not deny any Federal agency the authority to do its job in the public interest. That is what we would be doing here. We would be handcuffing the Federal Trade Commission in saying to them that they may be right in protecting the people of this country and their health, but they cannot do it because we would be handcuffing them in the Senate.

Why? Because we wish to save dollars for the industry.

The time has come when, if we consider health, we should forget the economics involved. If we are going to do the job in the public interest, let us do it the whole way.

I congratulate the Senator from Oregon for introducing the amendment, and also the Senator from New York [Mr. KENNEDY] for his support of that amendment.

Mr. THURMOND. Mr. President, will the Senator from Kentucky yield?

Mr. MORTON. Mr. President, I yield 1½ minutes to the Senator from South Carolina.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The Senator from South Carolina is recognized for 1½ minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the Neuberger amendment. I support S. 559 as it was reported by the Senate Commerce Committee. The approach contained in the bill now before the Senate is reasonable and goes as far as should be allowed at the present time.

I personally do not use tobacco in any form, but I recognize that many individuals do derive a certain amount of pleasure from smoking. Nevertheless, I believe that a vast majority of the American public, both smokers and non-smokers, are aware of the fact that excessive indulgence could pose a health hazard. I must point out that excessive indulgence in almost anything, including eating, drinking, exercising, and many other normally healthful endeavors, could likewise be detrimental to one's physical well-being.

Whatever one's personal opinions may be concerning the health hazards posed by cigarette smoking, there is still controversy within the medical and scientific community as to the conclusiveness of the proof. The labeling requirements contained in the pending bill are suffi-

cient to put everyone on notice, and I am willing to support this approach.

Mr. COOPER. Mr. President, will my colleague yield?

Mr. MORTON. Mr. President, I yield 8 minutes to my colleague, Mr. Cooper.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 8 minutes.

Mr. COOPER. Mr. President, I wish to speak specifically against the amendment which has been proposed by the distinguished Senator from Oregon [Mrs. NEUBERGER], and which is supported by the Senator from New York [Mr. KENNEDY].

The effect of the amendment would be to reduce the preemption against Federal agencies and State and local bodies from 3 years to 1 year.

The amendment raises a simple question, it challenges the fairness and reasonableness of the findings of the committee. I would have thought it would be more logical for its proponents, if such an amendment were to be offered, that its purpose would be to remove the preemption entirely.

The Chairman of the Federal Trade Commission testified before the committee that if a preemption were not provided the control of advertising by State and local bodies would result in a chaotic condition. Consequently, the only argument before the Senate at this time, as I see it, is: "Is a 3-year preemption reasonable?"

I associate myself with my colleague [Mr. MORTON], because I believe that his statement is eminently fair.

We represent a tobacco-producing State, and many of our people depend upon tobacco for their livelihood. We are proud of the industry, work for our farmers, but from the time the Surgeon General filed his statement on smoking and health, we have both maintained the position that health transcends other considerations.

But, we also believe that Congress has a duty to be reasonable in this matter, as it has in other matters, it should treat the tobacco industry fairly and upon the facts. I say that the 3-year preemption is reasonable. It is reasonable, first, because of the nature of the report on smoking and health. One could become emotional about this question—and it does cause emotion—but I sometimes wonder how many Senators have read the report. I know that the distinguished Senator from Oregon has studied the report because we have discussed it. It took me 24 hours to read it casually, spending 1 whole day with it.

I do not derogate the report, but a fact that it is not based upon new research but upon a review and evaluation of earlier research, reports, and statistical information. The element of causality is a most important element in linking smoking with cancer, yet the report determines causality by association with statistics, rather than upon the finding of any incriminating component in cigarettes.

Many argue about tar and nicotine, but the report indicates that nicotine is not incriminating, and tars to only an uncertain degree. The report directs

attention to the combustion but cannot identify incriminating elements.

Research is going forward under the direction of the Department of Agriculture and in many private institutions. Three years is a reasonable time to see if new information can be provided. A firm step forward will be taken if this bill is enacted.

A warning will appear on every package and it must be remembered that the police power of the States will not be reduced if this bill is passed. States, if they wish to provide restrictions and regulations against the sale of cigarettes, can do so under this bill.

The only preemption goes to the advertising field.

Finally, let me say in response to the arguments made by the Senator from New York that the examples he gave bear no relationship and provide no precedent of authority to the Federal Trade Commission to regulate the advertising of cigarettes. As I heard the distinguished Senator, he cited examples of the regulation of advertising under section 15(a)(1) of the Federal Trade Commission Act. But this section is applicable to foods, drugs, devices, and cosmetics. It is not applicable to tobacco, and it has been so held by the Court in the case of Liggett & Myers Tobacco Co. against Federal Trade Commission.

Mr. KENNEDY of New York. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I am glad to yield.

Mr. KENNEDY of New York. Why then, if the Federal Trade Commission does not have the legal authority to take this action, do we not let that matter be decided by the courts? Why are we in the Senate saying not to do it?

Mr. COOPER. The Court of Appeals decided that the Federal Trade Commission does not have the authority to regulate the advertising of tobacco under this section. If Congress wishes to give the Federal Trade Commission the power to do so, of course it can, but that has nothing whatever to do with the argument the Senator from New York has been making.

Mr. KENNEDY of New York. I am not suggesting that we give them the authority. I say to the Senator from Kentucky that I believe they have the authority. I disagree with the Senator from Kentucky on the legal precedents. The Senator and I can disagree on the question, but why do we not leave it up to the courts? Why is the Senate so against it? If the Federal Trade Commission does not have that authority—to take away an authority which they supposedly do not have—why is it necessary?

Mr. COOPER. The courts have already decided. The Senator must have read that.

Mr. KENNEDY of New York. The Senator from Kentucky says that the courts have decided that they do not have that authority. I am saying that they do have it.

Mr. COOPER. The courts have decided it. If the Senator wishes to introduce a bill to give the Federal Trade

Commission such authority under section 15, the Congress, of course, can do it, but—

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired.

Mr. MORTON. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. COOPER] is recognized for 2 additional minutes.

Mr. COOPER. Congress can prescribe in this bill any kind of advertising it wishes to regulate or provide authority to the Federal Trade Commission. But, I do not believe that the citations of the Senator from New York are to the point. But I do not wish to get off on that tangent, I wish to get to the main question before us.

Mr. KENNEDY of New York. Let me say to the Senator from Kentucky that under section 5(a)(1) of the Federal Trade Commission Act, in my judgment they have the authority, and it has been upheld in FTC against Cherney. That is my very point.

Secondly, if the Senator is correct, if they do not have authority to act, I do not know why we are bringing it up on the floor. Why not let the courts decide?

Mr. COOPER. The Senator's argument is a diversion, I say that respectfully, but I say it because section 5(a) is a prohibition against deceptive acts in commerce. We want to take reasonable steps to bring home to the people of this country, particularly the younger people, the conclusions of the Surgeon General for their consideration. I say that, coming from a tobacco State. Considering the fact that this report is based upon statistical evidence, and considering the fact that the committee unanimously accepted as a forward step the labeling of the packages, and took into consideration the educational efforts and research efforts underway, this will be reasonable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORTON. I yield 2 additional minutes to my senior colleague.

Mr. COOPER. We should give this bill, and the voluntary efforts being made, the opportunity of a fair trial. If evidence is produced to show a causal effect, I shall be among those supporting more radical steps if they are required; but to adopt the amendment of the Senator from Oregon is going too far. The action of the committee is reasonable and should be sustained. Finally, Mr. President, in support of my view that the Federal Trade Commission lacks authority in this area. I ask unanimous consent to have inserted at this point in my remarks an article appearing in the University of Pennsylvania Law Review of December 1964.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRADE REGULATION—FEDERAL TRADE COMMISSION PRESCRIBES HEALTH WARNINGS FOR CIGARETTE ADVERTISING

In response to the report of the Advisory Committee to the Surgeon General that "cigarette smoking is a health hazard of sufficient importance in the United States to

warrant appropriate remedial action,"¹ the Federal Trade Commission issued the cigarette advertising trade regulation rule.² The rule directed the entire industry to include a warning in all its advertisements and labels that cigarette smoking is dangerous to health and may cause death from cancer and other diseases.³ Failure to display such a statement, clearly and conspicuously, is designated "misleading advertisement," an "unfair and deceptive practice or act" under section 5 of the Federal Trade Commission

¹ U.S. Public Health Service, report of the Advisory Committee to the Surgeon General 33 (1964).

² Commissioner MacIntyre dissented, saying that the industry should be given a chance to police itself. Trade Reg. Rep., par. 50288 (June 29, 1964). MacIntyre argued that the industry had not been given adequate time to comply voluntarily with the provisional set of rules issued by the Commission on Jan. 22, 1964, 29 F.R. 530-532 (Jan. 22, 1964), pointing to the fact that the industry had established a privately enforced cigarette advertising code. The present rule is a use of a new regulatory procedure, the industrywide trade regulation rule. Procedures and Rules of Practice for the Federal Trade Commission, 16 C.F.R. sec. 1.63 (Supp. 1963). Not yet resolved with regard to the new procedure are such questions as reviewability, right to challenge the propriety of the rule in later litigation, and the authority to promulgate the rules. Commission discussion of the legal effects of the rule has not been clear. Compare FTC, trade regulation rule for the prevention of unfair or deceptive advertising and labeling of cigarettes in relation to the health hazards of smoking and accompanying statement of basis and purpose of rule 129 (1964) [hereinafter cited as statement of purpose], with id. at 145. By advocating a clearly advisory ruling rather than the questionably binding one issued, MacIntyre's dissent focuses attention on the problems of the present procedure. This comment will not deal with these issues.

The provisional rules which triggered the industry response provided as follows: Rule 1: a specifically worded caution to be included in all future advertisements. Rule 2: an order to eliminate all statements or implications that smoking is good for the health, not a health hazard, or that one brand of cigarettes is less dangerous than another. Rule 3: a ban on the tar and nicotine derby (a term which has come to mean the competition among companies to advertise that one has less tar and nicotine than another). See 29 F.R. 530-532 (Jan. 22, 1964). Proposed rule 3 was dropped because the Commission felt that the private industry code set up in September 1955 to ban the tar and nicotine derby had been sufficiently effective. Rule 2 was discarded in favor of rule 1, which was adopted in modified form.

³ Realizing the complex practical problems involved in adding insertions to all advertising and labeling, the Commission put the effective date of the order at July 1, 1965, for advertising and Jan. 1, 1965, for labeling. Complaints or exemption hearings on the advertising order could be had until May 1, 1965. See 29 F.R. 8324 (July 2, 1964); Trade Reg. Rep., par. 7939 (Sept. 15, 1964). At the behest of Representative OREN HARRIS, chairman of the House Interstate and Foreign Commerce Committee, the Commission decided to delay the effective date of the labeling order to permit time for congressional investigation and/or action. New York Times, Aug. 22, 1964, p. 19, col. 1. Many Congressmen have questioned the Commission's authority to act and have introduced bills in Congress to specifically empower the Commission to act as it has already acted.

Act.⁴ Trade regulation rule for prevention of unfair or deceptive advertising and labeling of cigarettes in relation to health hazards of smoking, 29 Federal Register 5477 (1964).

The Commission claims a clear mandate to issue the present order in the exercise of the power granted it by the Federal Trade Commission Act⁵ over trade practices,⁶ a term which by judicial definition encompasses advertising.⁷ But both the words and the history of the statute belie the Commission's contention. Under section 5(a)(6) the Commission is empowered "to prevent persons, partnerships, or corporations * * * from using * * * deceptive acts or practices in commerce."⁸ After an adjudicatory hearing, if a practice or act which the Commission has "reason to believe [an advertiser] * * * has been or is using" is found deceptive, the Commission may order the offender to "cease and desist."⁹

In enforcing this provision the Commission often orders deletion of a false phrase¹⁰ or elimination of a "false implication or overtone."¹¹ Less commonly, it directs excision

E.g. H.R. 3610, 4168, 5973, 7476, 9512, 9655, 9657, 9668, 9693, 9808, 11671, 11714, 89th Cong., 2d sess. (1964). The New York Times and the Wall Street Journal speculated that, although the Commission did not explicitly so state, it agreed to the delay because it too questions its authority. New York Times, Aug. 22, 1964, p. 19, col. 1; Wall Street Journal, Aug. 24, 1964, p. 1, col. 3. In addition Dr. Luther Terry, Surgeon General of the United States, has suggested that in the opinion of his Advisory Committee, the Federal Trade Commission Act should be amended to give the Commission power to take the remedial action advocated by his report. Trade Reg. Rep., par. 55238 (June 29, 1964).

⁴ 52 Stat. 111 (1938), as amended, 15 U.S.C. 45 (1958).

⁵ 52 Stat. 111 (1938), as amended, 15 U.S.C., secs. 41-77 (1958), as amended, 15 U.S.C., sec. 45(f) (supp. III, 1962).

⁶ Statement of Purpose 83-85.

⁷ *Shafe v. FTC*, 256 F. 2d 661, 663 (6th Cir. 1958): "The use of advertising is well recognized as an integral part of the production and distribution of goods, and as such is subject to the regulatory powers of the Commission." Accord, *E. F. Drew & Co. v. FTC*, 235 F. 2d 735 (2d Cir. 1956), cert. denied, 352 U.S. 969 (1956); *Reddi-Spread Corp. v. FTC*, 229 F. 2d 557 (3d Cir. 1956).

⁸ Federal Trade Commission Act sec. 5(a)(6), 52 Stat. 111 (1938), as amended, 15 U.S.C. sec. 45(a)(6) (1958).

⁹ Federal Trade Commission Act sec. 5(b), 52 Stat. 112 (1938), 15 U.S.C. sec. 45(b) (1958).

¹⁰ See, e.g., *Jacob Siegal Co. v. FTC*, 36 F.T.C. 563 (1943), aff'd, 150 F. 2d 751 (3d Cir. 1945), rev'd, 327 U.S. 608 (1946); *FTC v. Algoma Lumber Co.*, 15 F.T.C. 657 (1931), rev'd, 64 F. 2d 618 (9th Cir. 1932), rev'd, 291 U.S. 67 (1934); *FTC v. Royal Milling Co.*, 15 F.T.C. 38 (1931), rev'd, 58 F. 2d 681 (6th Cir. 1931), rev'd, 288 U.S. 212 (1933). The first two cases decided by the FTC were cases of this kind: *FTC v. A. Theo. Abbott & Co.*, 1 F.T.C. 16 (1916); *FTC v. Circle Silk Co.*, 1 F.T.C. 13 (1916) (textile products containing no silk were advertised as "silk" or "cilk," and the Commission ordered these names deleted).

¹¹ See e.g., *Feil v. FTC*, 285 F. 2d 879 (9th Cir. 1960); *Aronberg v. FTC*, 132 F. 2d 165 (7th Cir. 1942); *Wybrant Sys. Prod. Corp.* 54 F.T.C. (1681) (1958), aff'd, 266 F. 2d 571 (2d Cir.), cert. denied, 361 U.S. 883 (1959); *Procter & Gamble v. FTC*, 11 F. 2d 47 (6th Cir. 1926) (dictum). For a discussion of the various types of deletion orders regarding false advertisements, see Barnes, "False Advertising," 23 Ohio St. L. J. 597, 646 (1962); Note, "Federal Regulation of False Advertising," 5 Boston College Industrial and Commercial L. Rev. 704, 717-25 (1964).

of an entire advertisement or trademark, or an affirmative insertion, as in the present case.¹² But, however exercised, the Commission's scope of action has been circumscribed to permit only that which is necessary to eradicate the deception. In cases involving orders to excise a whole trademark, the Supreme Court has sanctioned only those complete excisions required to cure the deceptive quality of the trademark.¹³ Similarly, courts have distinguished affirmative disclosure "necessary" to eliminate a false statement or implication of the advertisement itself, and affirmative disclosure not "necessary" to dispel falsity, but informative to the consumer.¹⁴

In its use of the former, or "corrective" disclosure, the Commission has acted cautiously and has generally been upheld by the courts.¹⁵ In such cases, the Commission functions positively by responding to a particular deceptive element in the advertisement itself. In this type of case, the Commission's order is conditional: so long as the misrepresentation continues, the affirmative disclosure must continue. For example, a scalp treatment company that claimed it could cure "almost all" cases of baldness did not reveal its actual ineffectiveness against the male pattern type.¹⁶ The court upheld the Commission order that "failure to disclose that approximately 95 percent of the cases of baldness fall within the male pattern type is plainly misleading, when the petitioners claim they treat effectively virtually all cases of baldness."¹⁷

On the other hand, *Alberty v. FTC*, the only case to consider the question squarely, held the Commission lacked power to order an informative disclosure and described such authority as "the power to control the marketing of all * * * products * * *."¹⁸ The

Alberty court differentiated the Commission's right to prescribe "corrective" disclosures from power to order "informative" disclosure and, in reversing the FTC, concluded that "Congress gave the Commission the full of the former but did not give it the latter."¹⁹ In this case a tonic manufacturer had claimed that his product was able to cure fatigue caused by iron deficiency anemia. The FTC did not deny this claim, but insisted that the manufacturer include in all future advertisements the information that iron deficiency anemia was only a minor cause of fatigue, and, further, that his product could not relieve fatigue from other causes.²⁰ While such information might be "interesting" and perhaps "useful" to the public, the court refused to require the manufacturer to educate the public at his own expense.

The legislative history of the act supports the Alberty interpretation of Commission power.²¹ When the Federal Trade Commission Act, designed to maintain competitive conditions, was passed in 1914, the thought of Government regulating business in general by proscription was relatively new,²² that of regulating by prescription yet unformed.²³ Whereas congressional discussion indicates that the power and discretion accorded the Commission were to be broad, such power was not to take the form of compulsory affirmative action designed to buttress competition.²⁴ The agency that Senator Newlands, father of the FTC and floor manager of the original bill, proposed to Congress was simply "an administrative tribunal * * * with powers of recommendation, with powers of condemnation, [and] with powers of correction."²⁵

¹⁹ Id. at 39.

²⁰ Id. at 37. See note, "The Regulation of Advertising," 56 Colum. L. Rev. 1018, 1028 (1956), asserting that the conclusion of Alberty is due "to a recognition that the primary function of the FTC is to prevent false and misleading claims rather than to require informative disclosure."

²¹ See "Note, The Regulation of Advertising," 56 Colum. L. Rev. 1018 (1956). See generally Baker & Baum, "Section 5 of the Federal Trade Commission Act: A Continuing Process of Redefinition," 7 Vill. L. Rev. 517-543 (1962).

²² "It must be remembered that this Commission enters a new field of governmental activity." H. Rept. No. 533, 63d Cong., 2d sess. 8 (1913).

²³ See Dimock, "Business and Government" 402-423 (1949); Morison & Commager, "The Growth of the American Republic," 1865-1950, at 436 (4th ed. 1951). See generally Henderson, "The Federal Trade Commission" (1942). The compromise powers finally granted the Commission were confined to ordering business to cease and desist from an unlawful practice. Dorfman, "The Economic Mind in American Civilization," 1865-1918, at 340-341 (1933).

²⁴ Congress hesitated even to give the Commission the power to compel business to carry out the correction which it recommended let alone to compel positive reforms. See 51 CONGRESSIONAL RECORD 8977 (1913) (remarks of Representative Murdock). Interpreting this question of the Commission's power over remedy, the Supreme Court declared that the Commission does not have unlimited choice as to remedy, but rather is confined to that type of remedial action necessary to correct the evil. *Jacob Siegel Co. v. FTC*, 327 U.S. 608, 611-612 (1946) (dictum) (excision of trademark case).

²⁵ See 47 CONGRESSIONAL RECORD 1225 (1911) (remarks of Senator Newlands); accord, S. Rept. No. 597, 63d Cong., 3d sess. 19 (1914). Although phrased in terms of "competition" and "competitive conditions," congressional observations on the laissez faire char-

In 1938 the Wheeler-Lea amendment to the Federal Trade Commission Act expanded the Commission's power to cover all deceptive acts and practices in commerce, including those having no effect on competition.²⁶ Although the prevailing attitude was no longer hostile to positive governmental intervention,²⁷ Congress gave the FTC new power only "to the same extent [as] that * * * over unfair methods of competition * * *."²⁸ The comments of Senator Wolverton, a drafter of the amendment, indicate this intent: "The bill * * * places no requirement on the advertiser to make any statement concerning the commodity, but does require that he shall make no statement that is misleading in a material respect."²⁹

The Commission contends that the present trade regulation rule is corrective because it is necessary to offset the cumulative effect of advertising claims that cigarettes are pleasure-, status-, and success-giving and desirable.³⁰ The image of smoking conveyed by such advertising "is inconsistent with and

acter of the Commission are here pertinent. Cf. Davis, "Administrative Law 9" (1959). The "negative" attitude of Congress toward Commission intervention is reflected in the Senate report on the bill: "[W]hat is meant when we use the phrase 'maintaining competition' is [only] maintaining competitive conditions * * *." S. Rept. No. 1326, 62d Cong., 3d sess. 3 (1913).

²⁶ Federal Trade Commission Act, sec. 5 (a)(6), 52 Stat 111-112 (1938), as amended, 15 U.S.C. 45(a)(6) (1958).

²⁷ Compare *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 552-53 (1935). In *Schechter*, the NIRA was struck down as an unconstitutional delegation of congressional power. In his concurring opinion Mr. Justice Cardozo specifically described the nature of the codes which the NIRA was to promulgate: "[A] code is not to be restricted to the elimination of business practices * * *. It is to include whatever ordinances may be desirable or helpful for the well-being or prosperity of the industry affected." Id. at 552. Such administrative action he described as "not merely negative, but positive * * *." Id. at 553. Projecting the possible application of such power, Cardozo declared that the "extension becomes as wide as the field of industrial regulations." Id. at 553. Such power, he concluded, is inappropriate to an administrative tribunal. Throughout the Court's opinion, the FTC is contrasted with the unconstitutional NIRA.

Congressional intent to confine the FTC to a nonpositive role is also found in the character of the procedural tool with which Congress equipped the Commission: the cease and desist order. This order has been described as the administrative equivalent of the judicial injunction. Mayers, "The American Legal System," 428 (rev. ed. 1964). In characterizing the limit such procedure placed on the FTC, Judge Ewin Davis, a former commissioner, said, "When the Commission issues the cease-and-desist order, that is all it can do. We can just say 'stop'." 83 CONGRESSIONAL RECORD, 396 (1938) (read into RECORD).

²⁸ 83 CONGRESSIONAL RECORD, 3256 (1938) (remarks of Senator Burton K. Wheeler, a drafter of the bill, on the conference report on the bill).

²⁹ 83 CONGRESSIONAL RECORD, 396 (1938).

³⁰ Statement of Purpose 52. In the alternative the Commission claims the power to order informative disclosures, on the basis of "the principle, established in the interpretation and application of the Federal Trade Commission Act, that it is unfair and deceptive trade practice to fail to disclose material facts concerning a product which may influence many consumers in their decision whether to purchase the product, particularly where the use of the product might

¹² See, e.g., *Continental Wax Corp. v. FTC*, 330 F. 2d 475 (2d Cir. 1964); *Haskelite Co. v. FTC*, 127 F. 2d 765 (7th Cir. 1942); *Waltham Precision Instrument Co.*, No. 6914, F.T.C., July 20, 1962, aff'd, 327 F. 2d 437 (7th Cir. 1954); *Ward Labs, Inc.*, 55 F.T.C. 1337 (1959), aff'd, 276 F. 2d 952 (2d Cir.), cert. denied, 364 U.S. 827 (1960). On affirmative disclosures, see brief discussions in Millstein, "The Federal Trade Commission and False Advertising," 64 Colum. L. Rev. 439, 490 (1964); Barnes, "False Advertising," 23 Ohio St. L. J. 597, 645 (1962).

¹³ See e.g., *Jacob Siegel Co. v. FTC*, 327 U.S. 608 (1946); *FTC v. Royal Milling Co.*, 288 U.S. 212 (1933).

¹⁴ See *Alberty v. FTC*, 182 F. 2d 36 (D.C. Cir.), cert. denied, 340 U.S. 818 (1950). Affirmative disclosure cases are few, and affirmative disclosure discussions fewer. Prior to 1950, the courts did not even question the few orders of this kind which the Commission handed down. After 1950 the courts were awakened to the Alberty distinction between informative and corrective disclosures, but discussion was still scant. See, e.g., *Kerran v. FTC*, 265 F. 2d 246 (10th Cir.), cert. denied sub nom.; *Double Eagle Ref. Co. v. FTC*, 361 U.S. 818 (1959); *Ward Labs, Inc.*, 55 F.T.C. 1337 (1959), aff'd, 276 F. 2d 952 (2d Cir.), cert. denied, 364 U.S. 827 (1960).

¹⁵ Millstein, supra note 12, at 490.

¹⁶ *Keele Hair & Scalp Specialists, Inc.*, 55 F.T.C. 1840 (1959), enforced, 275 F. 2d 18 (5th Cir. 1960). See also trade regulation rule on binoculars, Trade Reg. Rep., par. 50273 (June 29, 1964).

¹⁷ 275 F. 2d at 23.

¹⁸ 182 F. 2d 36, 39 (D.C. Cir. 1950), cert. denied, 340 U.S. 818 (1950). Although Alberty was actually decided under sec. 15, the food and drug amendment of the FTC Act, not under sec. 5, the Commission has broader corrective powers under sec. 15 than under sec. 5, so the principles of Alberty should be applicable a fortiori to the present problem.

misrepresents the complete truth about smoking, which is that while it may afford pleasure, it is a habit difficult to break and extremely dangerous to life and health."³¹ Furthermore, the Commission asserts:

"It is a prevalent view in our society that the Government protects the public against advertisements to promote the sale of dangerous products. The mere fact that advertisement of cigarettes is officially tolerated carries an implication that cigarettes are not considered as serious a health threat as other products not generally tolerated * * *."³²

Thus, massive and skillful advertising has "blunted public awareness and appreciation" of the hazards of smoking, so that the advertisements themselves must refute the public misconception.³³

Even accepting the Commission's determination that the public now carries a mistaken impression of the relation of smoking to health, the order is not justified. For the representations that the Commission describes as misleading say only that the product is good,³⁵ a representation common to all

endanger health and safety." Notice of labeling rules, 29 Fed. Reg. 530-31 (Jan. 22, 1964). The Commission retained this view in Statement of purpose 106. In this respect the instant order differs from a more recent trade regulation rule issued by the viously used lubricating oil actively to represent that the oil was previously used. In that rule the Commission explicitly stated that such a statement must be added because the advertisements "represented directly or by implication that such oil is new and unused, and * * * represented that such oil has been 're-refined' when in fact the physical and chemical contaminants acquired through use have not been removed by a refining process," 29 Federal Register 11650 (Aug. 14, 1964). Further, the Commission noted, the packages for new and previously used oil were identical. Since the order asserted that "substitution is unlawful, even if qualitative equivalence could be shown and the consumer is prejudiced if he is led to expect one thing and is supplied with something else," the order itself contained a finding which rendered the order corrective in nature, 29 Federal Register 11650 (Aug. 14, 1964).

³¹ Statement of purpose, 102.

³² Id. at 111.

³³ Id. at 105. But see Borden, "The Economic Effects of Advertising," 222 (1942), in which the author listed advertising as sixth and last among the causes of the great growth of the cigarette market.

³⁴ The Commission noted that: "[T]he duty exists even if no individual advertisement, viewed in isolation, is deceptive under conventional principles. * * * [T]he duty arises precisely because of the tendency of the industry's advertising to neutralize the impact of * * * educational efforts." Statement of purpose 105. Such a rationalization of a remedy is a curiosity in the annals of the FTC, for "to date, and properly, the FTC has not adopted the view that advertising must always inform, or always perform any specific function, although the subject has been debated, *Alberty v. FTC*, * * *." Millstein, *supra* note 12, at 443 n.20; accord, Howrey, "The Federal Trade Commission: A Revolution of Responsibilities," 40 A.B.A.J. 113, 114 (1954).

³⁵ See statement of purpose 102. The Commission's past actions in the field of cigarette advertising have fit into the prohibitive pattern. See e.g., *Brown & Williamson Tobacco Corp.*, 56 F.T.C. 956 (1960) (consent order) (pictorial representation of filter efficacy prohibited); *American Tobacco Co.*, 47 F.T.C. 1393 (1951) (prohibited representation that twice as many independent experts smoke Luckies because of their knowledge of the grades of tobacco that American buys); R. J.

advertising. Thus, if the Commission can here require affirmative disclosure, it can require all advertising to disclose all defects. Although the Commission attempts to distinguish the present case on the ground that a health hazard has been clearly established by a governmental report, neither does section 5 give nor does the Commission claim general jurisdiction to protect the public from health hazards. The Commission asserts that many people believe "the Government protects the public against advertisements to promote the sale of dangerous products."³⁶ But statutory mandate and not popular conception of what constitutes proper Government action must delimit the scope of Commission power. Since there is no deception, there can be no correction. Thus the present rule is of the informative rather than the corrective-conditional type.

The Commission rejects the argument that the very fact of public and governmental concern about the health hazards of smoking³⁷ differentiates this case from ones in which the knowledge of the health hazard is peculiarly within the control of the advertiser, that the implications of a neutral advertisement, neither affirming nor denying a danger widely, if not universally, known to the public are necessarily less "deceptive" than those of a similar advertisement directed to an unsuspecting public. Since the Commission does concede that there is more than ordinary concern, the principle of *Alberty* applies a fortiori to cigarette advertising because recent, continuing, and extensive publicity has certainly made the public more cognizant of the connection between smoking and cancer than of the connection between fatigue and iron deficiency anemia.

In the alternative the Commission contends that the present trade regulation rule is "corrective" under the "standard of lawfulness [of section 15, relating to food, drugs, and cosmetics, which is] * * * fully applicable in a section 5 proceeding,"³⁸ even though section 15 is technically inapplicable to cigarettes.³⁹ That section prohibits false advertising of drugs, food, and cosmetics "if the use of the commodity advertised may be injurious to the health"⁴⁰ even when properly used. Moreover, in determining whether a drug advertisement is "false," the FTC is specifically directed to consider "not only representations made * * * but also the extent to which the advertisement fails to reveal facts material with respect to consequences which may result from the use of the commodity * * *."⁴¹

Reynolds Tobacco Co., 46 F.T.C. 706 (1950), modified, 192 F. 2d 535 (7th Cir. 1951), order on remand, 48 F.T.C. 682 (1952) (prohibited representation that Camels aid digestion, do not impair "wind" of athletes, will never harm or irritate the throat, and are soothing to the nerves); *London Tobacco Co.*, 36 F.T.C. 282 (1943) (prohibited any words, pictures, or other representation that any domestic product is imported).

³⁸ Statement of purpose, 111.

³⁹ American Medical Association Newsletter, Aug. 2, 1964, p. 1, col. 3. The article reports that information on the hazards of cigarette smoking is being distributed in the elementary and high schools throughout the country. Id. at 14. In addition information is being disseminated via clinics. In New York City, for example, therapy clinics are booming, and mass meetings are being held. Such publicity reaches the very same people apparently influenced by cigarette advertisements, *New York Times*, Aug. 31, 1964, p. 1, col. 4.

⁴⁰ Statement of purpose, 92.

⁴¹ Statement of purpose, 92 n.83.

⁴² Federal Trade Commission Act, sec. 15 (a) (1), 52 Stat. 114 (1938), as amended, 15 U.S.C. 55(a) (1) (1958).

⁴³ Ibid.

But the rationale of section 15, with its broadened definition of "corrective" disclosure, does not apply to cigarette advertisements. When section 15 was added to the Federal Trade Commission Act, congressional concern centered on consumer purchase of worthless nostrums.⁴² Congress concluded that drugs claim therapeutic value, and hence a failure to reveal deleterious effects constitutes a misrepresentation. Accordingly, as to drugs, a Commission order to reveal the deleterious attributes in effect constitutes a "corrective" disclosure. Cigarettes, by contrast, do not make positive therapeutic claims, and consumers do not attribute remedial value to cigarettes. The one case which considered the question, *Liggett & Myers Tobacco Co. v. FTC*,⁴³ held that cigarettes are not within the purview of the section.⁴⁴ In that case an advertisement affirmatively claimed that certain "cigarettes can be smoked by any smoker without inducing any adverse affect [sic] upon the nose, throat and accessory organs of the smoker,"⁴⁵ but the court rebuffed an attempt by the Commission to apply the corrective disclosure standards of section 15. Considering that section 15 standards were held inapplicable to cigarette advertisements making positive claims, it is difficult to deny that they would be at least equally inapplicable to the present advertising, in which the Commission did not find any such claim.

Mr. MORTON. I yield 10 minutes to the senior Senator from North Carolina.

Mr. ERVIN. Mr. President, in support of the position taken by both Senators from Kentucky I should like to cite a few figures, and reasons to show the importance of tobacco to the United States, and why we should act in a reasonable manner as we consider S. 599 which is designed to reduce cigarette smoking.

There are 750,000 farm families in 21 States of this Nation, in which there are 3 or 4 children to a family, who grow tobacco—\$1,300 million of their income comes from tobacco.

There are 550 factories which manufacture tobacco products. They employ 96,000 people, who have families, in which there are 3 or 4 children, who are dependent on the manufacture of tobacco for their daily bread.

There are 300,000 Americans who have stock invested to the extent of \$3 billion in tobacco factories.

⁴² See, e.g., the remarks of Senator Kenney, a proponent of sec. 15: "[Diabetes cures] * * * are sold only because of the false claims advertised for them. * * * [A] sufferer from diabetes will * * * rely on the false representations in the advertising * * *," 83 CONGRESSIONAL RECORD 395 (1938).

⁴³ 108 F. Supp. 573 (1952), aff'd mem., 203 F. 2d 955 (2d Cir. 1953).

⁴⁴ As times and conditions change it is fitting that an administrative agency, before resorting to the legislature, should seek to invoke new means of coping with still unsolved problems. But in its zeal the agency must not exceed the bounds of its statute. The legislative history, such as it is, coupled with indications of contemporaneous administrative interpretation leads me to the conclusion that Congress, had the matter been considered, would not have intended cigarettes to be included as an article [within the statute]. Id. at 577.

⁴⁵ Id. at 573 (quoting par. 6 of Commission complaint).

The Federal, State, and local governments collect annually in excise taxes on tobacco products more than \$3.2 billion.

I ask unanimous consent to have printed at this point in the RECORD a statement of facts showing the critical importance of the growing of tobacco to farm families and the manufacture of tobacco to those engaged in manufacturing tobacco products, and the importance of tobacco to those who are engaged in retail trades in America.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SOME FACTS ABOUT TOBACCO

In 1963, around 70 million Americans, more than half the adult population including overseas Armed Forces, bought; over 523 billion cigarettes, 14.9 billion more than in 1962 and 20.3 billion more than in 1961; more than 7.1 billion cigars, up 115 million over 1962; about 69.5 million pounds of smoking tobacco; nearly 64.8 million pounds of chewing tobacco; over 32.5 million pounds of snuff.

Tobacco users spent \$8.08 billion in 1963 for tobacco products. Of this, over \$3.3 billion went directly to Federal-State, and local governments in excise taxes.

Tobacco products pass across sales counters more frequently than anything else—except money.

Here are some more facts about the agriculture, manufacturing distribution, taxation, and costs and services of the tobacco industry.

FARMING

Tobacco growers

Tobacco is grown in 21 of our Nation's States by some 750,000 farm families, averaging 3 to 4 workers to a family. Total tobacco acreage exceeds 1.2 million with a total yield of over 2.2 billion pounds.

Major crop

Tobacco is the fifth largest cash crop in the country following cotton, wheat, corn, and soybeans, and ranks third in agricultural exports.

Farmers' income

Farmers received \$1.3 billion for the sales of tobacco crops, representing 8 percent of the total for all crops in the United States. The income from tobacco crops of the major States was: North Carolina, \$564,015,000; Kentucky, \$277,856,000; South Carolina, \$116,249,000; Virginia, \$100,885,000; Georgia, \$86,894,000; Tennessee, \$84,043,000.

Other tobacco-producing States include: Alabama, Connecticut, Florida, Indiana, Louisiana, Maryland, Massachusetts, Missouri, Ohio, Pennsylvania, West Virginia, Wisconsin, and to a minor extent, Kansas, Minnesota, and New York.

MANUFACTURING

Factories

About 550 tobacco products factories, large and small, operate in 30 States. Cigarette production in 1963 is estimated to exceed 550 billion cigarettes.

North Carolina leads in cigarette production with an annual rate of about 325 billion. Virginia produces around 115 billion cigarettes annually, and Kentucky puts out over 90 billion.

Employment and wages

Tobacco manufacturers directly employ more than 96,000 men and women. In 1961 employees of U.S. tobacco manufacturers received \$379 million in wages.

Assets and stockholders

The net assets of publicly held tobacco companies total over \$3 billion and there are over 300,000 stockholders of record of tobacco stocks.

Number of businesses

About 1.5 million businesses share in the tobacco trade supplying equipment, materials, transportation and distributing and merchandising services.

Farmers' expense

Tobacco farmers paid about \$155 million for hired labor and about half a billion dollars for other expenses such as: \$45 million for fertilizer and lime; \$8 million for tobacco plant bed cloth; \$2.5 million for twine used in tying tobacco; \$1.5 million for tobacco seed; \$2.5 million for plastic covers used in plant beds.

Other services and supplies

In addition to the amounts paid for tobacco, wages, machinery, precision instruments, electronic equipment, wooden hogsheads and cases used for shipping, the tobacco industry spent: \$25 million for cigarette paper; \$79 million for transportation, mostly by truck and annually uses; over 40 million pounds of moisture-proof cellophane; more than 71 million pounds of aluminum foil; nearly 27 billion printed packs and 2.7 billion cartons.

DISTRIBUTION

Wholesalers

Over 4,500 independent wholesalers handle the distribution of tobacco products, buying them directly from the manufacturer.

Retailers

Tobacco products are sold by more than 1.5 million outlets in the United States, including thousands of small retailers.

Exports

Over 28 percent of the tobacco leaf sold in free world markets in 1963 came from the United States—some 505 million pounds, up 36 million pounds from 1962, and valued at \$405 million.

In addition, the United States continued to be the world's leading exporter of cigarettes—23.2 billion in 1963, valued at over \$105 million, compared with \$68 million 6 years ago.

Expenditure

In 1963, the total consumer expenditure for tobacco products totaled \$8.08 billion, a \$326 million increase over the previous year.

More than \$7.1 billion of the total expenditure was for cigarettes, up some \$312 million over 1962.

TAXES

Total excises

Federal, State, and local excise taxes on tobacco products in 1963 yielded \$3.3 billion, more than three times the amount received by tobacco farmers for their crop. Over 98 percent of this came from excises on cigarettes.

In 1962, the \$3,232,183,000 collected in excises on tobacco products—chiefly cigarettes—went to:

Federal.....	\$2,030,304,000
State.....	1,129,879,000
Municipal.....	72,000,000
Total.....	3,232,183,000

Mr. ERVIN. Mr. President, the trouble with drastic action is that there is no evidence to show causal relation between smoking tobacco and lung cancer. The Surgeon General's report and every opinion expressed by those who agree with the Surgeon General's report on this subject are based on nothing but statistics. They are not based on research. They are based upon figures.

The reliability of figures to support conclusions can be illustrated by a story. A North Carolina mountaineer, who had been buying his groceries at the neighborhood grocery store, went into the

store to pay his grocery bill, and the grocer told him the amount of the bill. The mountaineer complained that the amount seemed to be larger than it should be. The grocer opened his account books and said, "Here are the figures. You know that figures don't lie."

The old mountaineer said, "Figures don't lie, but liars sure do figure."

Not only do liars figure, but honest men figure when they get the crusading spirit in their hearts. One can take figures and prove anything. I can illustrate it by saying this: More people in the United States smoke cigarettes than in any other country on the face of the earth. The longevity of Americans is greater than that of any other people on the face of the earth. That proves that smoking cigarettes prolongs the lives of those who smoke.

I said there was no evidence, but only some statistics showing a causal relationship between smoking and lung cancer. I call attention to the Cancer Bulletin for May-June 1963, in which is printed an article describing the other side of the coin. I call this article to the attention of the charming Senator from Oregon and the able junior Senator from New York. I read from the cover, which is entitled "Smoking and Lung Cancer":

THE OTHER SIDE

In past years, the Cancer Bulletin has reported studies which suggest that cigarette smoking is an etiological factor in lung cancer. But, most of the evidence for this hypothesis is statistical, and some important statisticians do not subscribe to it. In this article, Dr. Joseph Berkson, the acknowledged dean of American medical statisticians, expresses his doubts and gives his reasons. Dr. Berkson, who holds both an M.D. and a Sc. D., has been head, division of biometry and medical statistics, Mayo Clinic, and professor of biometry at the University of Minnesota, since 1932. He is a member of numerous statistical societies. Dr. Berkson's opinion, therefore, is important, and we recommend that our readers look at "the other side of the coin" by reading what he has to say.

I do not have time to read the entire article. I ask unanimous consent to have it inserted in the body of the RECORD as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Cancer Bulletin, May-June 1963]

SMOKING AND LUNG CANCER: AN UNTELE- VISED TELECAST

(By Joseph Berkson, M.D., Mayo Clinic,
Rochester, Minn.)

THE OTHER SIDE

(NOTE.—In past years, the Cancer Bulletin has reported studies which suggest that cigarette smoking is an etiological factor in lung cancer. But, most of the evidence for this hypothesis is statistical, and some important statisticians do not subscribe to it. In this article, Dr. Joseph Berkson, the acknowledged dean of American medical statisticians, expresses his doubts and gives his reasons. Dr. Berkson, who holds both an M.D. and a Sc. D., has been head, division of biometry and medical statistics, Mayo Clinic, and professor of biometry at the University of Minnesota, since 1932. He is a member of numerous statistical societies. Dr. Berkson's opinion, therefore, is important, and we recommend that our readers look at "the other

side of the coin" by reading what he has to say.)

Several months ago I received, by telephone, from a representative of one of the major broadcasting systems an invitation to participate in a televised discussion of the question of smoking and health. I replied immediately that I had previously received such invitations but had always refused, and explained that I did not think such complicated scientific problems were clarified by debates on television. I was assured that this particular program was to be on a high plane, that it was my duty to inform the public of my view, that eminent scientists who were named, including the Surgeon General of the U.S. Public Health Service, were to participate. I gave way, mostly because of the participation of the Surgeon General, but only on certain conditions. One was that I have the opportunity to write out some questions and my answers as a basis for the televised interview. All of my conditions were accepted. I mentioned the matter of time. I was told that I would have all the time I needed. I quickly wrote out a series of questions and answers, sent it to the representative of the broadcasting system, and received prompt assurance that it was satisfactory as the basis of the interview. A few days later I had a telephone conversation about arranging the details of the interview. During this conversation, I again brought up the question of time. It was then that I learned what was meant by my having as much time as needed. This, it was revealed, referred to the taped interview. Then the broadcasting people would select the parts actually to be presented. I will not repeat here the terms in which I rescinded my acceptance of the invitation to appear on the program.

That is how I came to have on my hands an unused television interview. I hate to waste it. So, instead of presenting a formal paper I shall present it in much the same way as I wrote it out, except for some amplifications to make my meaning clearer and to allow me to introduce some illustrations that I did not include in my planned presentation.

Question. We have all heard it said that some statistical studies have shown fairly conclusively that smoking is the chief cause of lung cancer. You have expressed doubt about this. Can you briefly explain why?

Answer. The way you have put the question reflects a widespread misunderstanding regarding the facts. You have heard the adage that the most misleading sort of untruth is a half-truth. If it is said that these studies showed smokers to have a higher death rate from lung cancer than nonsmokers, this is about a 15-percent truth. What these studies disclosed is that, in the populations under investigation, the smokers have a higher death rate from all causes together—lung cancer, other cancers including, for instance, cancer of the pancreas, of the bladder, and of the prostate; heart disease, and diseases other than any of these—in short, all classes of disease. Lung cancer constituted only about 10 to 15 percent of the total excess deaths. The real problem presented by these findings has been put as well as need be by E. Cuyler Hammond, the senior author of the American Cancer Society's reports (1961), from whom I quote: "In my opinion, the most important finding in all these studies is that overall death rate increases with the amount of smoking. I want to emphasize that I said 'overall death rate,' not 'lung cancer.' The relationship between smoking and lung cancer should be viewed in the light of this broader picture." The problem in hand is to discover the scientific explanation of these extraordinary findings. In figures 1, 2, and 3 [not printed in the Record] are shown statistics from the American Cancer Society study by Hammond and Horn (1958) and from the study

by Dorn (1958) on U.S. veterans, illustrating the "association" of smoking and death rate found in these studies. It is seen that the "association" affects all classes of disease, and that the number of excess deaths from lung cancer is only 12 to 15 percent of the total; some 85 percent of the excess deaths are from causes other than lung cancer.

Question. If these studies show the death rate among smokers to be higher from all classes of other disease, as well as from lung cancer, doesn't this indict cigarette smoking even more?

Answer. We are not concerned with indicting or exonerating smoking—I am, myself, a noncigarette smoker—but with trying to find the scientific explanation of these statistical results. The idea that cigarette smoking causes all these many deaths from all these many causes does, indeed, seem seriously questionable. There is not any scientifically known pharmacologic or physical explanation for so widespread and multifarious an effect. If we extrapolate the results to the general population, we must believe that there are some 250,000 deaths annually from smoking-induced diseases, without any of them individually noted as such from independent clinical or pathologic evidence. Only by their numbers are they known.

Question. What, then, do you think is the explanation?

Answer. Of course, I don't pretend to know. The statistical woods are full of curious findings for which we have never found an explanation (Berkson, 1962; Yerushalmy, 1962).¹ But I have suggested several explanations.

Question. Would you elaborate on this?

Answer. You may have noted that I said the death rate from all causes was found to be greater among smokers in the population studied. These populations were not a random sample of the U.S. population or any defined segment of it. The studies were made on the men who answered the questionnaires. I showed mathematically long ago that, in such selected samples, just such statistical associations as were found in these inquiries might appear but do not exist in the populations themselves (Berkson, 1946).

Question. You mean the results stem from a statistical fallacy in the data?

Answer. I mean this is a distinct and real possibility. The findings, as I remarked, are curious. Surely, it is no secret that huge blunders have been made with the uncritical use of statistics. None of the prospective followup studies have been reported for a long enough period to warrant judgment on this or other critical elements of the questions involved. Experience with followup studies shows that frequently it is the late findings that clarify their correct interpretation. At the Mayo Clinic, followup studies of the mortality of cancer are continued for 25 years, and even longer. The American Cancer Society study was discontinued after a 44-month followup. As respects the study undertaken by the U.S. Public Health Service, it was stated by the then Director of the National Cancer Institute (Heiler, 1957) that the investigation would be continued until all the members of the original population were dead. The reports so far issued (which seem to be of a preliminary nature) refer to a followup period of only 2½ years (Dorn, 1959).

Question. Is this the only explanation you have?

Answer. No, I have put forward several. One, which has been advanced also by other

¹ Experienced practicing statisticians know that data are not infrequently encountered showing impressive correlations that are statistically significant but physically incredible—so they are not published. Francis Bacon observed that we tend to register only our hits.

scientists, is that the difference in death rate from all causes reflects a constitutional difference between smokers and nonsmokers. The idea is that nonsmokers or light smokers are of a constitutional type marked by self-protective habits, and one aspect of this constitutional makeup is that they have lower death rates. Persons who have never smoked constitute only a relatively small proportion of the population. I once put it this way: "If 85 to 95 percent of a population are smokers, then, the small minority who are nonsmokers would appear, on the face of it, to be of some special type of constitution. If they successfully resist the incessantly applied blandishments and reflex conditioning of the cigarette advertisers, they are a hardy lot, and if they can withstand these assaults, they should have little difficulty in fending off tuberculosis or even cancer." There are many investigations by psychologists, anthropologists, and others attesting to a constitutional differentiation of smokers and nonsmokers. (Eysenck, 1960; Heath, 1958; Lilienfeld, 1959; Seitzer, 1963).

Question. To return to the question of lung cancer, haven't other later studies corroborated that smoking causes lung cancer?

Answer. No, indeed. Quite the contrary. Statistical studies, even if they are free of obvious difficulties such as are manifest in the present studies, are not conclusive in questions like the present one. They must be confirmed by experimental studies and other different types of investigation. And this has not happened.

Question. Would you explain this?

Answer. The theory as originally set forth was that cigarette smoke contains such carcinogenic chemicals as benzpyrene and arsenic which, in contact with the surface tissues of the lung, initiate the development of what is called squamous cell or epidermoid cancer. This type is cancer of the superficial layers of the lung tubes, and it seemed plausible that smoking could have such an effect. I don't think pathologists would have considered seriously the suggestion that smoking can cause the more deep-seated "adeno" type of lung cancer. In support of this theory, statistics had been published showing that the observed increased incidence of lung cancer was confined pretty much to the squamous cell or epidermoid type. Apparently with the expectation of corroborating this, recently at the Los Angeles County Hospital a study of necropsy specimens dating back to 1927 (Herman and Crittenden, 1961) was made. It was found that the relative proportion of epidermoid cancers is not increasing but is decreasing, while the proportion of "adeno" type is increasing. Finally, Willis (1961) has published a severe critique of the whole idea that lung cancer can be basically differentiated into these classes—the terms are descriptive conveniences. Actually, lung cancers are mixed in these respects and the conclusion of a different etiology for the different types is premature. Hammond and Horn (1958), in reference to this particular question, pointedly emphasized that all types of lung cancer—not just squamous cell cancer—were involved in the higher death rate among the smokers. Other cancers including cancer of the bladder and of the prostate are involved. These last organs surely are not in direct contact with cigarette smoke.

Question. Then, the theory that lung cancer is caused by carcinogen in the cigarette smoke is not valid?

Answer. The suspected carcinogens, like benzpyrene and arsenic, were found to be in such minute concentration in cigarette smoke as to be incapable of producing the cancers.² Even strong contenders of the

² Roasted coffee beans also contain small amounts of benzpyrene. The natural constituents of our daily diet contain minute amounts of arsenic.

smoking lung cancer theory no longer believe that the cancer is produced by carcinogens contained in tobacco smoke (Passey, 1962). One hears now about cocarcinogens (Berkson, 1962; editorial, *Lancet*, 1962). The theory of cocarcinogens has to await future investigations for its corroboration, but the significance of the present advocacy is that the simple theory of a chemical carcinogenic origin of lung cancer has been given up. The whole fabric of the original theory has broken down and virtually been abandoned.

Efforts which have been made for 50 years and have been intensified recently in response to the challenge of the statistical studies, have failed to produce lung cancer experimentally in animals by smoking (Stewart and Harrold, 1961).

Question. What, then, is the cause of the increase in lung cancer?

Answer. The very idea that the real death rate from lung cancer has been on the increase, questioned by a number of students since the start of this controversy, has been thrown into serious doubt in a recent study by Willis (1961), an eminent pathologist and authority on cancer. He reviewed old pathologic records in London, dating back to beginning of the century, and found so many cases of unrecognized lung cancer in the early records as to warrant the conclusion that there was just as much lung cancer in the past, but it wasn't recognized. You know that while the reported death rate from lung cancer has been increasing, the total death rate from all causes has not been increasing, but, instead, has been decreasing (fig. 4, not printed in the RECORD). The reported rise of death rate from lung cancer can be questioned because of the inaccuracy in the past in stating this cause of death on death certificates, but the decrease of total deaths is indubitable. Persons, who in former times would have died at an early age, say from tuberculosis, now live to ages at which they are exposed to death from lung cancer. The deaths from cancer of the stomach, for example, have decreased as much as, or more than, the deaths from lung cancer have increased (fig. 5, not printed in the RECORD). In the statistical studies, the death rate from cancer of the stomach is greater for smokers than non-smokers. If this means that smoking causes cancer of the stomach—and this is what it is said to mean—why have the deaths from gastric cancer decreased while cigarette smoking has increased?

I could continue for some time to recite the contradictions of the findings in these particular statistical studies which are found in subsequent studies: It is difficult to believe, in these days of stupendous amounts of research, when chemistry and biology have penetrated to the very key of life in relation to inanimate matter (Horsfall, 1962), that it would not have been established, without so much argument, that smoking causes lung cancer—if it were true.

Question. Then, how would you summarize your opinion?

Answer. Perhaps I can answer that question by telling about a conversation I had. In the summer of 1961 a meeting on smoking and health was held in Paris at the sessions of the International Statistical Institute. A number of European scientists gave papers, and, from this country, Dr. Harold Stewart, veteran cancer researcher and pathologist of the U.S. Public Health Service, Dr. E. Cuyler Hammond, and I participated. At the end of the meeting, perplexed by the confusion of issues, I privately asked an eminent English statistician this, "Really now, all semantics and subtleties aside, what do you think?" His answer was, "We are not within a thousand miles of understanding the explanation of these complicated findings." That is the

opinion of the distinguished English statistician, and it is equally the opinion of this undistinguished American statistician.*

Question. You speak of an English statistician. The Royal College of Physicians of London (1962) has issued a report vigorously condemning smoking as the chief cause of lung cancer. What do you think of it?

Answer. I have not studied it sufficiently to present an opinion. But there is an incongruous element about this incident. You know, there is a Royal Statistical Society in England also, the most renowned statistical society in the world. It has issued no report. Another point, in advance of the 1961 Paris meeting of the International Statistical Institute to which I referred—and this was before the Royal College of Physicians' report was published, but it had been bruited about—the secretary of the committee of the Royal College of Physicians and every member of it were invited to attend the meeting and participate in the discussion. None accepted. I must emphasize that no professional statistical society has issued any report on this statistical question. Nor has any such society been consulted.

Question. Do you mean we should do nothing about this, just throw up our hands?

Answer. No, I do not mean that. I have repeatedly stressed that these findings call for an investigative program of wide scope and intense pursuit to search out their meaning, and I have suggested some such investigations. But compared with the dimensions of the problem, little has been done. As an example I may point to the U.S. Public Health Service. I am told that about a hundred million dollars a year are allocated directly, and perhaps even more indirectly, to investigation of cancer. Since 1954, when the statistical investigations on smoking and lung cancer were proclaimed, perhaps almost a billion dollars have been allocated for cancer research. How much has been expended for the experimental investigation of this particular problem of smoking and lung cancer? So far as I know, little or none. I really don't mean to criticize the Public Health Service. I have another point in mind. Albert Einstein has remarked that if you want to know what a scientist really believes, don't listen to what he says, but observe what he is working on. I suspect that the reason the scientists of the Public Health Institutes are not working on this problem is that they don't see any research gold in "them thar hliis." Anyone who isolated from tobacco smoke a substance that could be shown, to the satisfaction of scientists generally, to be the cause of lung cancer, let alone all the other cancers that smoking is supposed to induce, would earn not one, but a brace of Nobel prizes. It might be the beginning of an effective attack on the problem, because when we know the real cause of disease this is the beginning of finding amelioration or cure. So, maybe the reason scientists in general are not trying to find the cause of lung cancer in tobacco smoke is that they don't really believe it contains the cause. I rest this conjecture on the opinion of Einstein.

Question. How about trying to induce people not to smoke, especially children?

Answer. Well, you're getting out of my field as a scientist. I will remind you that I am myself a nonsmoker of cigarettes; I own no tobacco stock, and I am a Fellow of the American Public Health Association. I think it would be salutary, for general reasons, if young people did not smoke—and, for that matter, so far as health is concerned,

* Personally, all relevant available facts considered, I think it very doubtful that smoking causes lung cancer.

it would not hurt adults if they did not smoke. I don't want to criticize anybody. Everybody works according to his own lights. But I will say that if a campaign is undertaken, it would be well to consult sociologists and psychologists as to how the campaign should be conducted lest it have more bad than good effects. What has happened to the per capita consumption of cigarettes since the furor of smoking causing lung cancer was launched? It is shown in figure 6. The per capita consumption was going down till 1954—when these investigations were announced. Then it turned and began rising precipitously. When I last plotted it, it had reached the highest point in our history.

I will not insist that this is an association of cause and effect; but it is probable. The American public has been made cigarette conscious by this discussion as it has never been before, and cigarette sales have mounted. The tobacco industry and those who own tobacco stock, of whom, unhappily, I am not one, have benefited. But has anyone else? The whole discussion has been conducted in an atmosphere of emotion and recrimination. We ought to cool it off and engage in some sober thought on all aspects of the problem, particularly the research aspects.

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Mr. ERVIN. I wish to read a few statements by Dr. Berkson. He speaks about having attended a meeting on smoking and health at the International Statistical Institute in Paris, France, in 1961. After he had heard physicians express themselves he asked this question of a prominent English statistician: "Really, now, all semantics and subtleties aside, what do you think?"

His answer was:

We are not within a thousand miles of understanding the explanation of these complicated findings.

Dr. Berkson goes on to say that the opinion of the distinguished English statistician is equally his own.

Dr. Berkson is the medical statistician of the Mayo Clinic. He says:

All relevant facts considered, I think it very doubtful that smoking causes lung cancer.

Now, I wish to show some of the statistics upon which the report of the Surgeon General was founded.

According to statistics found on page 626 of the Surgeon General's report smokers "have been reported to marry oftener, change jobs more frequently, to be more often hospitalized, and to participate more actively in sports than nonsmokers."

Therefore, Mr. President, on the basis of the Surgeon General's data, if a person wishes to marry often, he must smoke. If he wishes to participate more actively than other people in sports, he must smoke.

That is what it says.

Mr. KENNEDY of New York. Mr. President, what page is the Senator reading from?

Mr. ERVIN. Page 326. This is what it says. This is the kind of stuff that this proposal is based on. This is the Surgeon General's report, not mine.

I continue to read from the report:

Thomas—

He is one of the statisticians—

has reported that the parents of medical students who smoke have a significantly higher incidence of arteriosclerotic and hypertensive cardiovascular disease than parents of nonsmokers.

In other words, the report states that if one happens to be the parent of a medical student who smokes, the parent is more likely to have heart disease than the parent of a medical student who does not smoke. That is the kind of claptrap on which the proponents are trying to condemn the livelihood of millions of Americans.

An investigation of the question has been conducted in Germany. I invite the attention of Senators to the committee hearings, part I, starting at page 404. I inserted a statement in the *RECORD* when I testified before the committee which referred to the fact that a 5-year study of lung cancer recently published in Germany's *Journal of Cancer Research* presents evidence which conflicts with the conclusion of the U.S. Surgeon General that cigarette smoking is a major cause of disease. The German researchers have indicted air pollution, not smoking, as the chief cause of lung cancer.

I digress for a moment to ask the following question: Why does not the Surgeon General conduct investigations to ascertain the effect upon people of carbon monoxide, noxious vapors, and gases, which continually are being released into the atmosphere in the urban centers of the United States? Why does not the Surgeon General investigate the reasons more people die of lung cancer in the industrial sections and in the urban centers than in the rural sections of our country?

Why does he not address himself to such studies, instead of assembling statistics such as those about the parents of medical students who smoke and parents of medical students who do not smoke?

I refer again to the German report.

The PRESIDING OFFICER. The 10 minutes yielded the Senator from North Carolina have expired.

Mr. MORTON. Mr. President, I yield 2 additional minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. ERVIN. The German report on lung cancer and cigarette smoking stated—

No significant relationship exists between cigarette smoking and the risk of lung cancer. No relationship between the incidence of the disease and the number of cigarettes smoked could be demonstrated. The heavy smokers were found in an occupational group with the least occurrence of lung cancer. The average age at which lung cancer occurs is the same for heavy smokers, light smokers and nonsmokers.

The article points out that the highest incidences of lung cancer in Germany are in those areas which are highly industrialized—where there are many noxious vapors and odors in the atmosphere—whereas, the least incidences of lung cancer in Germany are among the professional men who smoke the most. That is what the German records show.

If we are to permit the Government to rid us of all our bad habits, there will not be much fun left in the world. We shall have a more extended Government than we have now, when the Government already looks after almost everything. The bill before us would provide that the Government would look after our bad habits. One of the worst habits of Americans is overeating. It is said that the platter is more deadly than the sword.

Food is more deadly than the cigarette. Why do we not advocate that the

Government tell us how much we shall eat and what we shall eat?

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. ERVIN. I shall yield on the Senator's time, if he wishes me to do so.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Does the Senator from Kentucky yield additional time?

Mr. MORTON. Mr. President, I yield 1 additional minute to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 minute.

Mr. ERVIN. I cannot yield to the Senator from New York unless he gives me some of his time on which I might yield. We are operating under a time limitation. I would enjoy a colloquy with him, but I do not have the time available.

Some time ago the Wall Street Journal published an editorial entitled, "Can Government Break All Our Bad Habits?" That article points out that more than 40,000 people are killed on the highways by automobiles every year. Do we propose to abolish motor vehicular traffic? More than 22,000 persons every year die of cirrhosis of the liver, which is said to be caused by drinking alcoholic beverages. Yet those who are so concerned about the puffing of a cigarette do not offer any objections to the drinking of alcoholic beverages.

I conclude by reading a portion of that editorial:

What such a program would do is inject the Federal Government into matters of purely personal behavior and private decisions. Since there is no logical place to stop that sort of thing, some of us may be permitted the view that it is an extremely bad habit to start.

Mr. President, I ask unanimous consent that the entire editorial be printed at this point in the *RECORD*.

There being no objection, the article was ordered to be printed in the *RECORD*, as follows:

CAN GOVERNMENT BREAK ALL OUR BAD HABITS?

A 3-year, \$10 million Government campaign against smoking is one of the lesser recommendations tucked away in the recent report of the President's Commission on Heart Disease, Cancer, and Stroke. The program would include setting up a nationwide network of smoking control clinics to help people quit and mounting a broad educational barrage on the dangers of the habit.

"It seems apparent," says the Commission, "that the reduction of cigarette smoking offers great possibilities for the prevention of illness, disability and premature death in this country." Whether or not you agree with that conclusion, some questions immediately arise.

If Congress approved this program, would it simultaneously agree to stop subsidizing the tobacco farmers? What would be the reaction if it did? And how would this part of the war on smoking fit in with the war on poverty?

More seriously, the thought might be ventured that smoking is not the only habit that can contribute to shortening life. The number of illnesses, disabilities and premature deaths in the United States annually which are directly traceable to tobacco is not known with any exactness, but there are

pretty firm—and grim—figures on other causes, such as the 40,000-plus highway toll every year.

Nor should anyone be unmindful of the implications of some 22,000 deaths yearly from cirrhosis of the liver, in many cases attributable to excessive drinking, and indulgence in certain ways conspicuously worse than smoking. In truth the list of our sometimes dangerous proclivities is long, and the obstacles to overcoming all of them fairly forbidding.

In the case of smoking, a lot of exhortation against it has been heard for a good many years and even centuries; more, of an indirect sort, will be forthcoming in the stringent new advertising code of cigarette manufacturers. Local experiments in anti-smoking clinics have also been undertaken. Yet the sales figures suggest that none of this, not to mention innumerable new year's resolutions, has made much of a dent. It is not clear that a Federal program would have better luck.

What such a program would do is inject the Federal Government into matters of purely personal behavior and private decisions. Since there is no logical place to stop that sort of thing, some of us may be permitted the view that it is an extremely bad habit to start.

Mr. ERVIN. Mr. President, I thank the Senator from Kentucky for yielding time to me.

Mr. MORTON. Mr. President, I yield 10 minutes to the Senator from Indiana.

Mr. HARTKE. I thank the distinguished Senator from Kentucky.

First, I should like to make clear that I support Senate bill 559. I am one of the members of the committee who sat through most of the hearings and listened to most of the testimony. I should like to make clear that I have never in my life smoked. I have engaged in athletics. I went into the hearings completely of the opinion that there must be some connection between smoking and lung cancer. I came away from those hearings completely astonished at what had been the results. I was really shocked to find out that, so far as smoking and its connection with cancer were concerned, it was not proved at all. Witness after witness, when faced with the question, "Can you honestly say that cigarette smoking causes lung cancer?" said, "No."

They said, "We have statistical evidence but no clinical evidence of any connection."

I was misled by one witness who, when asked, stated a series of things that happen if one smokes one package of cigarettes a day, what happens if a person smokes two packages, what happens if a person smokes three packages, and the results of such smoking on the various parts of the human body, especially in regard to the mouth, and so forth. Suddenly it occurred to me that they were talking about individual differences.

They were not even talking about live people. They were talking about autopsy reports. It was impossible to consider a deceased individual who had smoked one package of cigarettes and have that same dead person smoke two. These results were clear.

Mr. KENNEDY of New York. Mr. President, will the Senator yield.

Mr. HARTKE. I shall yield on the time of the Senator from New York. Otherwise, if I have any time after I

complete my statement, I shall gladly yield to him on the time I have remaining.

The question was asked, "Why not take the question to the courts?" When the bill was before the Committee on Commerce, representatives of the Federal Trade Commission said that they dare not go to the courts and could not go to the courts to ask for authority to proceed. They did not do that in this case. They came to us from the Food and Drug Administration. What did they say? They did not have authority to proceed. I presided over those hearings for the "hazard substance" people. Not a person asked a question during those hearings except myself. I asked them why they did not apply this bill. They had no answer to that question whatsoever. If they are so sure that there is a connection, I would think they would have an answer.

I do not know what there is about cigarettes that is bad. There must be something, or there would not be so many people upset.

That is the only reason I voted to bring the bill up.

I should like to discuss another question on which the committee spent a great deal of time in hearings. It was a very important question raised by the Senator from New York. Much of the time during the hearings was devoted to another issue which I believe transcends in importance even the questions which we are now attempting to resolve. That question is whether or not the Federal Trade Commission or any other administrative agency created by Congress should be permitted, by arbitrary expanding authority delegated to it by the Congress, and by disregarding due process safeguards provided by the Congress, to usurp the authority of the Congress in an area of national importance. This is what they did. That is why the proposed legislation is before the Senate. The agency intended to act on its own without due process. That is the reason why Congress now has the bill before it.

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. HARTKE. In its recommended bill, the committee has made clear that the restriction would be only a temporary period. If the Senator from New York wishes me to yield on his own time, I shall be glad to do so.

Mr. KENNEDY of New York. Mr. President, will the Senator yield on time that might be yielded to me in order that I may ask a question?

The PRESIDING OFFICER. Will the Senator from Indiana yield?

Mr. HARTKE. I would yield on the Senator's time.

The PRESIDING OFFICER. Does the Senator from Oregon [Mrs. NEUBERGER] yield time to the Senator from New York [Mr. KENNEDY] so that he may ask a question of the Senator from Indiana [Mr. HARTKE]?

Mrs. NEUBERGER. I yield.

Mr. KENNEDY of New York. First, I ask the Senator whether he signed the report of the Commerce Committee. I believe he said that he sat through the hearings.

Mr. HARTKE. The Senator refers to the Committee on Commerce?

Mr. KENNEDY of New York. The Commerce Committee, where Senate bill 559 was considered.

Mr. HARTKE. I am supporting the bill. I did not sign it.

Mr. KENNEDY of New York. The report was issued on behalf of the Senator?

Mr. HARTKE. That is correct. I agreed to it. It was a unanimous decision. But I did not sign the report. The Senator asked me whether I signed it.

Mr. KENNEDY of New York. Did the Senator agree with the findings contained in the report?

Mr. HARTKE. I said in the first instance that there must be something wrong. I agreed that there should be some kind of labeling, rather than permitting the Federal Trade Commission to act without proper authority.

Mr. KENNEDY of New York. But the Senator approved the report.

Mr. HARTKE. I did not approve the report; I merely agreed to report the bill; that is all.

Mr. KENNEDY of New York. The Senator from Indiana did not approve the report that was submitted in his name and in the names of other members of the committee?

Mr. HARTKE. Pardon me?

Mr. KENNEDY of New York. The Senator did not approve the report?

Mr. HARTKE. I approved the reporting of the bill. The Senator from New York well knows that many times a Senator will agree that a bill shall be reported for the consideration of the Senate, even though he may not agree with the contents of the bill or with all its details; or he may agree with only parts of the bill.

But in order that the Senate may consider a bill—and I think every Senator has done this repeatedly; I know that I have done so in the committees of which I am a member—I have often said I would agree to report a bill, although I might disagree with it.

Mr. KENNEDY of New York. May I read an excerpt from the report? It bears on the point the Senator from North Carolina and the Senator from Indiana are making:

While there remain a substantial number of individual physicians and scientists—the Commerce Committee received testimony from 39 of them—who do not believe that it has been demonstrated scientifically that smoking causes lung cancer or other diseases, no prominent medical or scientific body undertaking a systematic review of the evidence has reached conclusions opposed to those of the Surgeon General's Advisory Committee.

The Commerce Committee, therefore, concurs in the judgment that "appropriate remedial action" is warranted.

Mr. HARTKE. I would agree with that statement. That is not a hard statement to make. It merely says in substance that although there is a question as to whether there is scientific proof that cigarette smoking causes cancer, there is no definite scientific proof that it does cause cancer.

Mr. KENNEDY of New York. I point that out in connection with what the

Senator from North Carolina and the Senator from Indiana said; namely, that there was no causal connection.

Mr. HARTKE. The Senator from Indiana never made any such statement. The Senator from New York may talk about what the Senator from North Carolina said; but I never talked about causal connection at all.

Mr. KENNEDY of New York. I thought I heard the Senator from Indiana say that in the hearings he asked all the witnesses whether there was any relationship between smoking and cancer. Did I correctly understand that to be the question he asked?

Mr. HARTKE. No. All I asked was: "Can you definitely say that cancer is caused by cigarette smoking?" I did not ask about causal relationship.

Mr. KENNEDY of New York. Then I misunderstood the Senator.

Mr. HARTKE. There is a difference between the two; and every witness who testified agreed to that.

FEDERAL TRADE COMMISSION USURPATION OF CONGRESSIONAL AUTHORITY

Mr. President, I support S. 559. The public will be gratified that the Commerce Committee, after comprehensive hearings and full deliberation, has developed a responsible and balanced solution to the vexing questions presented in this area of the relationship between smoking and health.

It has weighed the evidence and concluded that there shall be required to be placed prominently upon each package of cigarettes a factual caution statement that "Cigarette Smoking May Be Hazardous to Your Health."

The committee has recognized that the underlying medical questions have not been settled, and that every competent scientific authority has agreed that further research is needed. That necessary and extensive research is underway through both public and massive private industry support.

Much of the hearings to which the Commerce Committee devoted its attention was concerned with another issue involved in this legislation, and an issue which in my view should be brought to the attention of the Senate because it transcends even those important questions which the committee has so safely resolved.

That question is whether the Federal Trade Commission, or any other administrative agency created by the Congress, should be permitted by arbitrarily expanding the authority delegated to it by the Congress and by disregarding the due process safeguards provided by the Congress, to usurp the authority of Congress in an area of national importance.

In its recommended bill, the committee has made it clear, but unfortunately on only a temporary basis, that such usurpation of congressional authority by the Federal Trade Commission is not to be countenanced.

Because I believe that this question is vital to our entire system of democratic and orderly government, it must, Mr. President, be brought particularly to the attention of this body.

When the Advisory Committee to the Surgeon General was appointed in 1962,

it was agreed among all those associated in that effort, including the Department of Health, Education, and Welfare, the Food and Drug Administration in that Department, and the Federal Trade Commission, that the work would be undertaken in two consecutive phases.

The first phase provided that the Advisory Committee would critically review all available data even though it would not conduct any new research. Its job was to produce and to submit to the Surgeon General a technical report.

Phase II was to be a determination, recognizing the vast national interests concerned, of what might be appropriate action in the light of the Advisory Committee report. As stated at the time and set forth in the Advisory Committee report:

It was recognized that different competencies would be needed in the second phase and that many possible recommendations for action would extend beyond the health field and into the purview and competence of other Federal agencies.

There was a general understanding that as the result of phase II there might be recommendations to Congress.

Nevertheless, within 1 week after the Advisory Committee filed its report, the Federal Trade Commission attempted to legislate what should be done. So far as can be ascertained, it did so without consultation with other agencies. It did so without discussion with any congressional committee even though bills on the subject were then before the Congress.

What is most significant, the Federal Trade Commission attempted to act wholly beyond its statutory powers by writing in the form of a trade regulation rule what was in effect a broad legislative provision. In that precipitate action, the Commission did not follow any of the procedural safeguards laid down by Congress to control this very agency.

Instead, it resorted to a novel procedure predicated on the idea that it could in effect legislate across the board about an important national question, and could do so not only without waiting for Congress to act, but also in disregard of what Congress had specified should be its procedural methods.

I need not, Mr. President, rehearse the full detail of this astounding attempt on the part of a Federal administrative agency to usurp congressional authority because it is fully set forth in the record of the committee hearings. Nevertheless, there are three aspects of that effort that warrant at least summary statement to the Senate.

In the first place, the Federal Trade Commission has no legal authority, by issuing what it calls a broad-scale trade regulation rule, to legislate affirmative requirements controlling the labeling and advertising of the products of an entire industry. Congress never conferred that unlimited power. The Commission's lack of statutory authority has been cogently demonstrated not only by competent legal authorities who are members of the Senate, not only by equally expert private lawyers familiar with the controlling constitutional provisions and with the Federal Trade Commission Act, but also by every academic

legal scholar in our law schools who has examined into and written about that issue.

What is even more striking is that, as repeatedly recalled to the Federal Trade Commission, the very power to legislate by broad-scale rule which it sought to exercise, has been expressly denied to it by the Congress. Perhaps it was for that reason that over the first half century of its existence, the Federal Trade Commission never sought to legislate in this fashion, but instead always proceeded, as its authorizing statute required, as a quasi-judicial body upon individual complaint, on hearings on sworn testimony, and on findings of fact that could be reviewed on the entire record by a court.

Second, apart from jumping the gun on these vital national questions and attempting to do so by asserting legislative powers which it had been expressly denied, the Federal Trade Commission acted in a fashion which destroyed every procedural safeguard which Congress had provided both in the Federal Trade Commission Act itself and in the Administrative Procedure Act of 1946.

In the Administrative Procedure Act, passed two decades ago to remedy various administrative abuses, Congress specifically provided that "in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing," action could not be taken except upon "reliable, probative and substantial evidence."

In developing the required agency record, Congress specified that there was to be a right "to conduct such cross-examination as may be required for a full and true disclosure of the facts."

In superficial obeisance, the Federal Trade Commission conducted what it called a hearing on its proposed Trade Regulation Rules. But, unbelievably, it announced at the outset that no sworn testimony would be received, that no cross-examination would be permitted, and that the Commission would make its determinations not merely on what was said to it but also upon what it believed it already knew.

When in June 1964, it issued its final Trade Regulation Rules, the Commission went even further in its effort to defy the procedural requirements of these statutes. It announced that the facts on which it was attempting to legislate by its Trade Regulation Rule were matters of "official notice" and that in any future proceeding to enforce its rule, no one would thereafter have any opportunity to contest those facts because they had already been determined in the so-called hearing on the original proposal at which cross-examination had not been permitted.

No more glaring example of a deliberate administrative attempt to avoid and to frustrate the due process procedural safeguards of the Administrative Procedure Act has ever been seen.

Third, and perhaps of equal significance, has been the continued refusal of the Commission to yield to congressional authority. It is true that in response to a request in August 1964, from the chairman of the House Committee on Interstate and Foreign Commerce, the Com-

mission postponed the effective date of one part of its rules from July 1, 1964 to July 1, 1965. That is why we are considering the bill today. But despite the fact that Congress had taken the entire problem under review, that the House committee had held 5 days of hearings in June and July 1964, on 10 pending House bills, that numerous comparable bills were pending in the Senate—including the bill introduced by the Senator from Oregon—and that the Senate Commerce Committee had begun its hearings on these proposals in mid-March of 1965, the Chairman of the Federal Trade Commission flatly told the Senate committee that in the absence of specific congressional action, it would proceed to enforce its promulgated trade regulation rule on the requirement of warning statements on all advertising of cigarettes. As Mr. Dixon then said:

Unless the Congress specifically, by passage of law or resolution, or some expression, takes us out of this, we have no other choice. (Hearing, p. 416. See also p. 430.)

I submit that this is an extraordinary attitude for an administrative agency, which is a creature of Congress, to take with a Senate committee. The Commission recognized that its power to make substantive law by issuing trade regulation rules was a deeply controversial question, and it conceded that it might take as much as 4 years for its judicial resolution. It recognized that the entire problem was being intensively dealt with both by a Senate and House committees.

Yet it took the position that absence of prompt congressional legislation by the specified date of July 1, 1965, which the Commission, not Congress, had determined, the Commission would proceed to enforce its substantive rules whether Congress had or had not concluded its consideration.

Perhaps, Mr. President, I need not characterize that attitude. We have certainly reached a peculiar posture in this country if while questions of major national concern are being deliberated by both branches of Congress, an administrative agency can announce its own substantive rules of law and tell the Congress that unless it acts in a particular way by a particular date, its rules will be considered the law of the land.

I do not mean to criticize the competence or zeal of the Federal Trade Commission. I do believe it important to call to the attention of the Senate where its present usurpation of authority can lead. Indeed, these problems are not limited to the United States. A quarter of a century ago, Lord Hewart deplored the same tendencies in England in his famous book "The New Despotism." What he then said seems to me to bear squarely on this issue of an administrative agency reaching out to usurp authority:

It would be a strange misuse of terms if the name of "administrative law" were to be applied to that which, upon analysis, proved to be nothing more than administrative lawlessness.

Let nobody be so foolish or so flippant as to suppose that any attack is here intended upon what it is a commonplace to describe as the best civil service in the world * * *. In remarks upon the mischiefs of bureaucracy one may assume the excellence of the

civil service. Yet it may perhaps be well to remember that high capacity and ardent zeal never need to be more carefully watched than when they appear to have entered, with all their might, upon a wrong road.

As Senators are aware, section 4 of the committee bill preempts the Federal Trade Commission from requiring statements with respect to smoking and health in the advertising of cigarettes for only a 3-year period. The committee report states that this "in no way confirms or denies the Federal Trade Commission's holding that it has the general authority to issue trade regulation rules."

I do not object to the committee's general approach that in this important national area of tobacco and smoking and health, Congress ought continually be kept up to date. I think the question is how this should be done. I think the Commission's letter of May 13, 1965, contained in the committee report, makes it abundantly clear that the Commission has virtually prejudged what it is supposed to report, and I think its insistent urging that the 3-year moratorium be cut to 6 months or 1 year is further indication of that prejudgment.

What I would prefer to see in the bill is a permanent foreclosure of any attempt by the Federal Trade Commission in the future to legislate across the board on these questions, rather than to proceed as it was authorized to do in its own statute, and a firm directive that it always proceed in conformity with the safeguards laid down by the Congress in the Administrative Procedure Act.

Mr. President, we are here today because the Federal Trade Commission was acting in accordance with the way in which the Senator from Oregon would like to have it act.

I do not object to her wanting them to do that. However, she is attempting by means of this amendment and a series of amendments which would follow, to do exactly what the Federal Trade Commission would like to do without authority.

The committee decided otherwise. The committee voted otherwise. The amendments have all been disposed of in committee. There is no reason why they cannot be disposed of in a similar fashion before the bill is passed.

Mrs. NEUBERGER. Mr. President, I ask for the yeas and nays at the conclusion of the debate.

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). On the amendment of the Senator from Oregon?

Mrs. NEUBERGER. That is correct.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second?

The yeas and nays were ordered.

Mrs. NEUBERGER. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I rise to commend the Senator from Oregon [Mrs. NEUBERGER], the Senator from New York [Mr. KENNEDY], and the Sen-

ator from Pennsylvania [Mr. CLARK] on their amendment.

I believe that a couple of points have not been brought out. We are not talking about the tobacco industry. The tobacco product which we are talking about is only cigarettes. We are not talking about pipes, cigars, chewing tobacco, or even snuff. Perhaps I should note that in the Senate there is a box of snuff which is provided for us and which I use occasionally. I notice that it is almost empty.

I ask the Senator from New York or the Senator from Oregon a question. Would this bill apply to cigarillos? If it does not apply to cigarillos, it would seem to me that one would be left with the conclusion that perhaps the harm which comes from smoking cigarettes is caused by the paper.

This point has not been brought out in the report as I read it. It seems to me that those who support the tobacco industry might well find that the harm is not caused by the tobacco or the wrappers, but, perhaps, that it is caused by paper.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BASS. Mr. President, will the Senator yield?

Mr. MORTON. I yield 1 minute to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. BASS. Mr. President, one of the big questions involved in this matter is that no one in the medical or scientific field has ever been able to say what there is about tobacco that does have a causal effect. Throughout the entire testimony, because of the entire statement which the Senator has just made, a great area of doubt has been created as to whether it is the tobacco or the paper. Maybe we should outlaw paper.

Mr. PELL. That is the beauty of the amendment. It goes to the paper and not to tobacco. It does not include cigarillos.

Mr. BASS. But they are striking at tobacco and saying that tobacco causes it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. NEUBERGER. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. CLARK. Mr. President, let us get the basic facts straight in this discussion. I have been amazed at what some Senators who oppose the amendment have said.

I read from the report of the highly regarded Committee on Commerce:

On January 11, 1964, the Surgeon General's Advisory Committee on Smoking and Health delivered its unanimous judgment: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

This conclusion is from an advisory committee of 10 physicians and scientists whose competence and freedom from bias has never been questioned. I am not

concerned with whether we can prove in a laboratory that lung cancer is caused by cigarette smoking. I am convinced by the irrefutable statistical evidence that many thousands of Americans are dying every year from lung cancer caused by cigarette smoking.

The report states that it is established that male cigarette smokers have a higher death rate from coronary artery disease than nonsmoking males.

Is that not enough for the Senators to act on?

I have been concerned for all these years because the Surgeon General was so timid. He should have made these findings 5 or 10 years ago. I have listened to Dr. Clarence Little, a good friend of mine, make the point that one cannot prove in the laboratory that cigarettes cause lung cancer. I do not care about that, because the statistics, beyond the peradventure of a doubt, make the point plainly enough.

I suggest to my good friend, the Senator from North Carolina [Mr. ERVIN], who is such a strong advocate of States rights, that the States will never do the job. We know that. They did not do the job on civil rights. What makes Senators think that they would do the job in connection with the smoking hazard? Why will they not do it? They will not do it because the tobacco industry lobby is too strong in the State legislatures. It may turn out today that the tobacco industry lobby is too strong in the Senate of the United States. I hope not.

I refer now to section 5 of the Federal Trade Commission Act. I agree with the former Attorney General of the United States that the Trade Commission Act gives ample authority to the Federal Trade Commission to regulate this advertising.

We know perfectly well what is going on. People in the business of selling cigarettes are not voluntarily going to tell the public that cigarette smoking is harmful.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. CLARK. Mr. President, I decline to yield at the moment.

Mr. ERVIN. Mr. President, the Senator has used my name and talked about me.

Mr. CLARK. Mr. President, I shall yield, but not now.

Those in the business of selling cigarettes are not voluntarily going to tell the public that cigarette smoking is harmful. They will tell them that smoking is fun, that it gives pleasure, that it is sophisticated, that it makes one a he-man, that it will increase one's sex appeal, not that it may produce cancer or heart disease. In a case like this, self-regulation is too much to ask. Only governmental restraints can work.

Mr. President, I yield back the remainder of my time. I should be happy to answer a question from my dear friend the Senator from North Carolina, in that brief way in which he is accustomed to conducting colloquy, if he will get time from the Senator from Kentucky.

Mr. ERVIN. Mr. President, I should like to have time in which to read

briefly from the report of the Surgeon General with relation to heart disease.

Mr. MORTON. Mr. President, I yield 2 minutes to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I call attention to page 327 of the report of the Surgeon General. It reads:

CONCLUSION

Male cigarette smokers have a higher death rate from coronary artery disease than nonsmoking males, but it is not clear that the association has causal significance.

I thank the Senator.

Mr. CLARK. Mr. President, I thank my friend the Senator from North Carolina, for his unpersuasive argument. The PRESIDING OFFICER. Who yields time?

Mrs. NEUBERGER. I yield as much time as is required to the Senator from Massachusetts.

Mr. KENNEDY of Massachusetts. Is it not true that one of the principal concerns of the Senator from Oregon is that a great danger exists for the young people of the country as a result of the lack of more immediate control over cigarette advertising?

Mrs. NEUBERGER. The Senator is correct.

Mr. KENNEDY of Massachusetts. And is it not true as a result of all the material assembled, not only in the carefully documented hearings, but also in the committee report, that there is little question about whether or not cigarette smoking really constitutes a health hazard? It appears to me that if there is little question as to whether a health hazard exists in smoking, it is all the more important that steps be taken as soon as possible to regulate the nature of advertising—especially as it is directed to our youth.

Mrs. NEUBERGER. In answer to the Senator's question, I think the Senator from New York [Mr. KENNEDY] brought out, very emphatically and dramatically, that each year we do not warn your people, we find more and more that they take up smoking, and the health hazard each year increases.

Mr. KENNEDY of New York. Mr. President, may I make a comment on that?

Mrs. NEUBERGER. I yield to the Senator from New York.

Mr. KENNEDY of New York. The record shows that every day 5,000 young people begin to smoke. The record also shows that 10 percent of schoolchildren in the seventh grade are habitual smokers, and 50 percent of schoolchildren in the 12th grade are habitual smokers. The record also shows that 1 million of the children who are now in school will, when they grow up, get lung cancer from cigarette smoking. That is what we are discussing.

Mr. KENNEDY of Massachusetts. I should like to ask the Senator from New York if he would describe for us the situation that would result if the Federal Trade Commission were to take a certain position or posture on any cigarette advertisement and the company in question felt that the FTC had ruled unwisely or had overstepped its authority.

Mr. KENNEDY of New York. First, there would be no damage to the cigarette company. The Senator from Indiana asserted that the Federal Trade Commission has no legal authority to take such action. He pointed out 3 areas in which it had gone beyond its authority. If that is so, the case should be taken to the court. All the companies have to do is go to court.

The companies can question the authority which the Senator from Indiana discussed on the floor, and the action taken by the Federal Trade Commission will be decided by the courts.

Mr. KENNEDY of Massachusetts. Is the Senator saying that if a cigarette company alleges that the Federal Trade Commission has acted unreasonably, it can file an appeal with the court?

Mr. KENNEDY of New York. That is correct; and nothing will happen in the meantime.

Mr. KENNEDY of Massachusetts. The companies can take that action and have an opportunity to have the question clarified. Is that correct?

Mr. KENNEDY of New York. Yes. The earliest time action could be taken, if Congress let the Federal Trade Commission move immediately and let this provision be put into effect on July 1, is 4 years by the time all judicial review is completed. The Public Health Service has estimated that 300,000 people die prematurely each year because of cigarette smoking. We do not know what part of the cigarettes causes it, but we do know that deaths are due to cigarette smoking. So an additional number of people will die due to smoking if this regulation is not put into effect.

Mr. KENNEDY of Massachusetts. Am I correct in assuming that these estimates, and your concerns over deaths resulting from smoking, result from expert testimony by doctors before the committee? Testimony to which the Senator from Pennsylvania has referred.

Mr. KENNEDY of New York. I point out that studies started in 1939 and were intensified in 1954. They were based on prospective study and on followup study of healthy smokers and nonsmokers over a period of time.

These studies showed that the risks of cancer of the bladder, larynx, esophagus, and mouth are two to five times higher for cigarette smokers than for nonsmokers.

Nationwide studies in both the United States and England show that cigarette smokers have a considerably greater mortality rate from respiratory diseases such as emphysema and bronchitis. A recent American prospective study shows the risk that smokers will die from these diseases to be more than three times that for nonsmokers.

The studies showed that the death rate from coronary heart disease for smokers is about 60 percent greater than for nonsmokers, and the risk of aneurysm and Buerger's disease for cigarette smokers is about three times that of nonsmokers.

I add that the risk of lung cancer for smokers is nine times as high as for nonsmokers.

These are facts. No one has questioned these facts and the causal connection ex-

cept the Senator from North Carolina. I do not believe the Senator from Kentucky did.

Mr. ERVIN. Mr. President, I would like to answer, if I can obtain the floor. Who has the floor?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mrs. NEUBERGER. I yield to the Senator from Massachusetts for questions.

Mr. KENNEDY of Massachusetts. I wish to ask the Senator from New York or the Senator from Oregon if there is a cigarette advertising code established by the cigarette industry for the ostensible purpose of voluntarily regulating cigarette ads?

I believe the Senator from Oregon referred to such a code. I would be interested in her knowledge or judgment as to whether the industry itself has used this code for the benefit of the public.

Mrs. NEUBERGER. As the industry saw the threat of controls on labeling, or perhaps advertising, it did set up a board to supervise advertising. Whether the public has seen any effect from it, I do not know. There has been an attempt at self-policing action in connection with some of the advertising, brought about by the pressure of possible law, but we welcome any improvement from the industry.

Mr. KENNEDY of Massachusetts. Has the cigarette advertising code, under which the industry has been operating for several months, produced any material improvement in cigarette advertising? I was wondering if the Senator from Oregon felt that it had.

Mrs. NEUBERGER. We could see no visible effect of it. The industry attempted to reduce the direct appeal to athletes and young people. In a burst of public spirit they even promised to take out cigarette advertising from comic books.

Mr. KENNEDY of Massachusetts. Will the Senator correct me if I am mistaken? It is my understanding that it is the presence of this voluntary code that the industry relies upon in arguing for a 3-year moratorium on FTC actions, or even for removing the FTC from this area permanently?

Mrs. NEUBERGER. That is correct.

Mr. KENNEDY of Massachusetts. So it has been the Senator's experience and it appears the experience of the FTC itself, that there has been no material improvement in cigarette advertising in the past. And it is the argument of the Senator from Oregon, that no betterment in advertising will occur unless this kind of legislation is enacted. Is that correct?

Mrs. NEUBERGER. Yes. It is almost impossible to ask any industry such as the cigarette industry or the outdoor advertising industry to police itself. I do not think we can expect much in the way of control under its own code.

Mr. KENNEDY of Massachusetts. I thank the Senator.

Mrs. NEUBERGER. Mr. President, I should like to comment about the Surgeon General's report. There have been more and more research articles published which augment, verify, and add

to the Surgeon General's report. They sustain it.

I ask unanimous consent to have printed in the RECORD at this point a list of the scientific articles which have been included in the hearings of the Committee on Commerce and which have augmented the Surgeon General's report, verifying his findings.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BIBLIOGRAPHY ON EFFECTS OF CIGARETTE SMOKING

"Smoking and Health, Part I," introduction, summaries and conclusions. Report of the Advisory Committee to the Surgeon General of the Public Health Service, U.S. Department of Health, Education, and Welfare. (Submitted at the request of the Committee on Commerce, by the American Cancer Society, Inc., Medical Library, 219 East 42d Street, New York, N.Y.)

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Canada: Best, E. W. R.; Josie, G. H., and Walker, C. B.: "A Canadian Study of Mortality in Relation to Smoking Habits." A preliminary report. *Canad. J. Public Health*. 52: 99-106, 1961.

Great Britain: Doll, R., and Hill, A. B.: "Mortality in Relation To Smoking: 10 Years' Observations of British Doctors." *Brit. Med. J.* 1: 1399-1467, 1964.

United States: Bohrani, N. O.; Hechter, H. H., and Breslow, L.: "Report of a 10-Year Followup Study of the San Francisco Longshoremen." Mortality from coronary heart disease and from all causes. *J. Chronic Dis.*, 16: 1251-1266, 1963. Dorn, H. F.: "The Mortality of Smokers and Nonsmokers." With discussions by C. E. Hopkins, E. C. Hammond, R. C. Hockett, and P. Meier. In *American Statistical Association, Social Statistics Section. Proceedings. Papers presented at the annual meeting of the American Statistical Association, Chicago, Ill., December 27-30, 1958.* Washington, American Statistical Association, 1959, pp. 33-71.

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Hammond, E. C.: "Smoking in Relation to Mortality and Morbidity." Findings in first 34 months of followup in a prospective study started in 1959. *J. Nat. Cancer Inst.*, 32: 1161-1188, 1964.

Hammond, E. C., and Horn, D.: "Smoking and Death Rates"—report on 44 months of followup of 187,873 men. 1. Total mortality. 11. Death rates by cause. *J.A.M.A.* 166: 1159-1172, 1294-1308, 1958.

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France:

Denoix, P. F.; Schwartz, D.; and Anguera, G.: "L'enquête Française sur l'étiologie du Cancer Broncho-Pulmonaire." Analyse détaillée. *Bull. Ass. Franc. Cancer*. 45: 1-37, 1958.

Schwartz, D., and Denoix, P. F.: "L'enquête Française sur l'étiologie du Cancer Broncho-Pulmonaire." Rôle du tabac. *Sem. Hop. Paris*, 33: 424-437, 1957.

Germany:

Lickint, F.: "Der Bronchialkrebs der Raucher." *Munch. Med. Wschr.* 82: 1232-1234, 1935.

Muller, F. H.: "Tabakmissbrauch und Lungencarcinom." *Z. Krebsforsch.* 49: 57-85, 1940.

Great Britain:

Doll, R., and Hill, A. B.: "A Study of the Aetiology of Carcinoma of the Lung." *Brit. Med. J.* 2: 1271-1286, 1952.

Stocks, P., and Campbell, J. M.: "Lung Cancer Death Rates Among Nonsmokers and Pipe and Cigarette Smokers," an evaluation in relation to air pollution by benzpyrene and other substances. *Brit. Med. J.* 2: 923-929, 1955.

Japan: Segi, M.; Fukushima, I.; Fujisaku, S. [and others]: "An Epidemiological Study on Cancer in Japan," *Gann*, 48 (suppl.): 1-63, 1957.

Netherlands:

Korteweg, R.: "Mortality From Lung Cancer in the Netherlands During and After the Last War," *Brit. J. Cancer*, 8: 34-39, 1954.

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Germany: Druckrey, H.; Schmahe, D.; and Beuthner, H.: "Vergleichende Prüfung von Tabakrauch-Kondensaten, Benzpyren und Tabak-Extrakt auf carcinogene Wirkung an Ratten," *Naturwissenschaften*, 47: 605-606, 1960.

United States:

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Auerbach, O.; Stout, A. P.; Hammond, E. C.; and Garfinkel, L.: "Changes in Bronchial Epithelium in Relation to Sex, Age, Residence, Smoking, and Pneumonia." *Bronchial epithelium in former smokers*, *New Eng. J. Med.* 267: 111-125, 1962.

Auerbach, O.; Stout, A. P.; Hammond, E. C.; and Garfinkel, L.: "Interrelationships Among Various Histologic Changes in Bronchial Tubes and in Lung Parenchyma," *Amer. Rev. Resp. Dis.*, 90: 867-876, 1964.

Hilding, A. C.: "On Cigarette Smoking, Bronchial Carcinoma and Ciliary Action," 1. Smoking habits and measurement of smoke intake. *New Eng. J. Med.* 254: 775-781, 1955.

Wynder, E. L.; Graham, E. A.; and Croninger, A. G.: "Experimental Production of Carcinoma With Cigarette Tar," *Cancer Res.* 13: 855-864, 1953.

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Mrs. NEUBERGER. I shall ask permission that certain statements be printed in the RECORD.

The first is a critique to which the Senator from North Carolina referred, by Dr. Poche, the German scientist, which should be read in full to be accurately evaluated.

There being no objection, the critique was ordered to be printed in the RECORD, as follows:

**CARCINOMA OF THE LUNG AND CIGARETTES—
1 YEAR FOLLOWING THE TERRY REPORT**

Cigarettes do not influence perceptibly the frequency of lung cancer. This was a conclusion of a statistical study of lung carcinoma in North Rhine-Westphalia which appeared in the *Zeitschrift für Krebsforschung* (Journal for Cancer Research) in 1964. This study caused a tumult in medical and lay circles, particularly through sensational headlines in the daily press. A working group of Düsseldorf-Bonner scientists—Prof. Reinhard Poche, pathologist, Dr. Ottfrid Mittmann, biostatistician, and Dr. Oswald Kneller, scientific assistant, were the authors of this work which represents a contribution of the Rhine-Westphalian pathologist.

From the post mortem and histologic entry material from 12 institutes of pathology in North Rhine-Westphalia, 1,229 cases of lung carcinoma were radiographed in a questionnaire activity carried out by physicians alone. Over 26,000 post mortem protocols from several pathologic institutions served as basis for comparison.

According to the findings lung carcinoma as in other countries has increased considerably in males since the beginning of the century. In Düsseldorf, for example, the percentage rose from 0.8 to 13.1. Still the maximum number of deaths fell below the 60th year of life.

A comparison between the number of cigarettes smoked daily and average age of the carcinoma victim showed no relationship. The bronchial mucosa of heavy smokers did not become cancerous earlier than that of light smokers or nonsmokers. In no case could a statistical association between intensity of cigarette smoking and percentage of flat-cell epithelial carcinoma be demonstrated. The researchers therefore regarded the exogenous toxins less as causative as instigating.

Reactions of commentators to the report varied from agreement to skepticism and strong diversion. Two prominent medical statisticians in Germany—Prof. Karl Freudenberg, director of the Seminar for Medical Statistics of the Berlin Free University, and Prof. Siegfried Koller, chief of the Institute for Medical Statistics and Documentation in Mainz, expressed considerable scruples concerning Dr. Poche's methods.

There follows a dialog between Dr. Poche and his colleagues and Professor Koller. Professor Koller maintains that the material prepared by the North Rhine-Westphalian authors contributes nothing significant to the problem of cigarette smoking and lung carcinoma. Considering the important errors in source material it is without significance if the authors could not demonstrate this relationship statistically.

In another article on page 232 of *Selecta*, Dr. Siegfried Heyden of Zurich states that the report by Poche and his colleagues is not a representative investigation of 12 institutes of pathology in North Rhine-Westphalia. He believes the crux of the whole report lies in the questionnaires. He criticizes the material gathered from military service and war imprisonment. Dr. Heyden does not agree with Professor Poche and his colleagues.

Dr. Ferdinand Schmidt of Potsdam regrets that this report was published without careful examination. He feels the report has done a disservice to German science.

EXCERPTED QUOTATIONS FROM THE ARTICLE BY S. KOLLER, "OBSERVATIONS ON THE PAPER BY R. POCHÉ, O. MITTMAN AND O. KNELLER, 'STATISTICAL INVESTIGATIONS OF BRONCHIAL CARCINOMA IN NORTH RHENISH WESTPHALIA' " ¹

The investigation, however, is not an instance of a planned randomly designed sample according to predetermined principles of selection; on the contrary, it is a partial collection made according to no deliberate plan of selection organizing data.

According to the principles of random sampling and investigational technique—as, for example, they are observed in sociology—material collected in this fashion would be considered unusable. Only if the data obtained were from distinct and comparable groups * * * could the series of observations permit the drawing of significant conclusions.

While questions on occupation and the length of time spent in occupations were asked in detail, inquiry on smoking consisted only of the following items: Are you a smoker? Yes or No. How much daily? Weekly? Cigars? Cigarettes? Pipe?

There was no confirmation of the length of time for which such data applied. According to the wording of the questionnaire, information given might just as easily concern smoking habits during the months immediately before treatment as to those of the years preceding. It was hardly likely that information on smoking habits of 10 to 20 years earlier would be given.

So it is that in their comparisons, the authors have not tested the theory that proposed external factors play a role in the causation of bronchial carcinoma—but, on the contrary, the entirely different theory concerning the possibility of such factors having a significance in squamous cell carcinoma which differs from that in other types of bronchial carcinoma.

In view of (1) the design of the investigation, (2) the difficulties encountered in its execution, and (3) the types of comparison made: One can hardly expect—to obtain—statistically significant results—not only in terms of such causationally irrelevant factors as prisoner-of-war status, but also for such factors as place of residence, occupation, and smoking habits.

The material gathered by the authors has practically no relevance to the current-day problem of the influence of cigarette smoking on bronchial carcinoma. In view of the important sources of error, the failure to demonstrate statistical association between cigarette smoking and bronchial carcinoma is no argument against the existence of such a correlation, as demonstrated by so many other authors.

In their discussion, the authors have referred to correlations between materials gathered from various international sources, such data being taken in terms of per capita cigarette consumption and causes of death. However, such correlations—based on differences drawn from highly unlike regional elements which internally are highly comparable—are scarcely applicable to the drawing of on pages 104 and 105 of the original article by Poche, Mittmann, and Kneller are evidence neither for nor against a theory of cigarette influence on the production of lung cancer.

¹ Dr. Koller's article appeared in the *Zeitschrift für Krebsforschung*, vol. 66, pp. 187-192, 1964. Poche, Mittman and Kneller's original article appeared in the same journal, vol. 66, pp. 87-108, 1964.

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that a memorandum prepared by the Public Health Service at the request of the Commerce Committee of the Senate be printed in the RECORD, because it refers emphatically to the question of statistics which has been raised.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM PREPARED BY THE PUBLIC HEALTH SERVICE AT REQUEST OF SENATE COMMERCE COMMITTEE—REVIEW OF ARGUMENTS RAISED ON SMOKING AND HEALTH EVIDENCE

INTRODUCTION

The points made in the medical and scientific testimony offered in opposition to the Senate bills were considered by the Surgeon General's Advisory Committee on Smoking and Health, were fully deliberated by that Committee, and were considered to be of less significance than arguments supporting the opposing view that cigarette smoking is a serious health hazard. The more important of these arguments are discussed and answered in the final report of that Committee. A discussion of the main points raised follows.

CANCER—FUNDAMENTAL ASPECTS

The fact that strains of animals can be developed which have fixed cancer rates does not mean that human cancer is governed to an equal degree by hereditary factors. This is shown by the fact that the incidence of lung cancer in humans has changed so dramatically over the past 50 years. Many causes and mechanisms in the production of cancer are, in fact, known. Cancer can be produced by certain chemicals, by certain viruses, and by certain genetic factors, and in many cases the mechanism of this cancer can be interfered with. There is no single cause or mechanism which has been demonstrated to hold true for all cancer in plant or animal or human forms.

STATISTICS

Although causation cannot be inferred from association, the fact that an association exists is adequate to require investigation as to the possibility that one is dealing with causation. In the absence of association it is usually a waste of time to seek cause-and-effect relationships.

If genetic or constitutional differences between smokers and nonsmokers accounted for the association between smoking and disease, there could not have been the tremendous increase in the incidence of lung cancer over the past 50 years, because we have no evidence that there have been any kind of sharp genetic or constitutional changes in the human race during that period of time.

There are different biological mechanisms possible for each of the many diseases related to cigarette smoking. This is perfectly reasonable considering the complexity of the chemical nature of cigarette smoke and the fact that it contains many products known to be harmful to living organisms.

The remarkable finding that runs through all of the retrospective studies despite the diversity of population, method, and study design, is the consistency with which the relationship between smoking and lung cancer is identified.

Again, despite the diversity of population method and study design, the consistency with which the prospective studies support each other in their major findings is also remarkable. In general, criticisms that may be leveled at any one study are answered by other studies in which those criticisms are not applicable. Many of the prospective

studies had a selection of subjects which were shown to be representative of well-defined populations. The death rates of smokers of a pack or more were specifically shown by the Hammond-Horn report (1958) to exceed that of the total U.S. white male population despite the fact that the selection of the population as a "well" population automatically makes this group more comparable to large insurance populations of initially well people than to the total population which includes those who are already seriously ill. The specific hypothesis that this study recruited unusually healthy groups of nonsmokers was tested and refuted in the same paper by showing that the results of the analysis were identical whether dealing with groups in which early deaths occurred only among smokers, only among nonsmokers, or those groups which had no early deaths.

Data on death rates among nonrespondents have been shown to be consistent with the overall findings and would require unreasonable hypotheses to contradict them. The epidemiological studies are completely consistent with the finding that smoking is related to disease and strongly support the interpretation that these relationships are cause and effect.

OTHER OBSERVATIONS

The incidence of lung cancer depends upon the percentage of people who smoke and the effectiveness of dosage of smoke taken into the body. Per capita consumption does not give any information on how many people smoke or how much each smoker consumes. The fact that most cigarette smokers in European countries burn their cigarettes much further down than do smokers in the United States could more than compensate for the higher per capita consumption in this country.

The occurrence of cancer is a function of the susceptibility of the tissues as well as the degree of exposure. The apparent paradox that cancer of the trachea is uncommon may be due to the fact that the trachea is exposed to smoke for shorter periods of time than the lung and may have greater inherent resistance. The most plausible theories on the mechanism for the occurrence of cancer of the lung are based on an interference with ciliary action which normally removes deposited particulate matter. These are not inconsistent with the actual distribution of cancers in the lung.

Clinical studies of lung cancer among women show that both women and men having the same smoking habits have similar mortality rates from lung cancer. Although there has been a marked increase in smoking by women over the years, most of this has taken place among women born since 1900. Lung cancer, however, is so much more common among people over the age of 55 that we are just beginning to enter a period of time in which we could anticipate a level of exposure to cigarette smoke among women similar to that among men in the same age group. The rate of increase in lung cancer is completely consistent with the fact that cigarette smoking has reached a plateau among men over the age of 50. Numerous studies by statisticians and actuaries have demonstrated that improvements in diagnostic methods for detecting lung cancer cannot account for the bulk of the increase in deaths from lung cancer in the last few decades. All studies on the relationship of lung cancer to various other factors than cigarette smoking, based on the exposure of individuals to each of these other factors and to cigarette smoking, have shown that cigarette smoking is much more closely associated with lung cancer than are any of these other factors or any combination.

PATHOLOGY

There is extensive experimental data to verify that the lungs of smokers are, in

fact, grossly and microscopically different from those of nonsmokers. Epidermoid lung cancer in a nonsmoker is sufficiently uncommon to make its exact microscopic appearance somewhat doubtful. Changes in the tissues seen at autopsy of smokers, which distinguish them from nonsmokers, are considered analogous to changes in other parts of the body that are preliminary to cancer. Both the epidemiological evidence and the pathological evidence is that the likelihood of lung cancer is reduced with the cessation of cigarette smoking. This is consistent with the animal experiments which show that the removal of agents that produce certain tissue changes result in the elimination of these changes. The tissue changes which are found in the lungs of smokers do occur in the lungs of nonsmokers, but in much lower frequency. In the most extensive studies done, these tissue changes show a correlation with smoking habits. These tissue changes suggest the mechanism of cellular change in tissue exposed to cigarette smoke, but this is not necessarily the only mechanism which may produce lung cancer.

LARYNX CANCER

The absence of any marked increase in laryngeal cancer death rates is quite consistent with the cigarette-lung cancer thesis. Cancer of the larynx is not only associated with cigarette smoking, but about equally with pipe and cigar smoking. This would be expected in that the smoke from pipes and cigars does reach as far as the larynx. The documented decline in cigar and pipe smoking among men has, to some extent, offset the increase brought about by cigarette smoking. Moreover, the survival rate for people with laryngeal cancer has increased sharply over the past 25 years. Thus, the lack of change in our death rates of laryngeal cancer to some extent reflects the improvement in its treatment. The sex difference for laryngeal cancer is consistent with the difference in the smoking habits between males and females.

CARDIOVASCULAR DISEASE

Clinical and epidemiological observations have illustrated the roles of several factors in the etiology of cardiovascular disease: Heredity, diet, physical activity, stress, obesity, and smoking. Each factor has its advocates, but few deny a possible role of any of these items. To deny that cigarette smoking may be a causal factor in cardiovascular disease, simply because other agents may also cause the disease, is somewhat similar to saying, "Since you can break your leg skiing, you cannot break it in an automobile accident."

Radiologic studies of the coronary arteries were recently acclaimed with a headline to the effect that, "Smoking does not change the coronary arteries." In fact, what the study showed was that, while smoking increased the cardiac output, and, therefore, the workload, it did not bring about the necessary compensatory dilation of the coronary vessels. In ordinary exercise, this compensatory dilation does occur. Since it does not occur in smoking, it is equivalent to bringing about a relative oxygen deficit.

There is no evidence to suggest that smoking is necessarily a sign of emotional stress. The decision to smoke is usually made long before a person decides upon his occupation. The study of 25,000 professional men, referred to in the hearings, collected only about 2,000, or 8 percent, usable questionnaires. The definition of stress and the measurements of its effects represent one of the most controversial areas in epidemiology, and the study referred to added little to knowledge in the field.

ANIMAL EXPERIMENTS

Animal experiments in the field of cancer can, at best, provide suggestive data but not definitive data, since it is well known that the carcinogenic effect of various agents is

different for different species and, within species, for different tissues.

Success in reproducing a human disease in experimental animals is of great scientific significance, but the failure to do so has little meaning. Syphilis, infectious hepatitis, and poliomyelitis have been equally difficult to reproduce in the laboratory animals. No experimental animal has been successfully taught to smoke and inhale in the human fashion. The production of skin cancer with tobacco smoke condensate approximates what happens to the human lung more closely in some respects than placing animals in a smoke-filled environment. The claim that skin cancer has been produced by painting animal skin with egg whites and glucose has not been substantiated.

Skin painting experiments using pipe and cigar tobacco are quite consistent with the smoking and lung cancer thesis. It has been demonstrated that pipe and cigar smokers do not inhale to the same degree or in the same fashion as cigarette smokers. That inhalation is probably an important factor is revealed by the association of pipe and cigar smoking with oral cancer but not lung cancer. Pipes and cigars produce more tar and, therefore, more cancer on the animal's skin. But, since they are less likely to be inhaled, they produce less lung cancer.

CHRONIC BRONCHITIS AND PULMONARY EMPHYSEMA

While it is true that some of the manifestations of chronic respiratory disease have been described for almost 200 years, it is only within the past few decades that the prevalence of these diseases has increased as rapidly. This coincides in time with the increase in cigarette smoking. The well documented "smoker's cough" is one aspect of chronic pulmonary disease. Study after study has revealed that smokers cough more, and that they bring up more sputum than nonsmokers. Most physicians have, for years, recommended that their patients with bronchitis stop smoking. The major professional associations of physicians dealing with chest diseases have emphatically endorsed the conclusions of the Surgeon General's Report with reference to chronic bronchitis and emphysema. Several studies of chronic pulmonary disease have developed and utilized rigid diagnostic criteria for chronic bronchitis and have, in each instance, found the well-known relationship of smoking to chronic pulmonary disease.

Mr. ROBERTSON. Mr. President, will the Senator from Kentucky yield me 1 minute?

Mr. MORTON. Mr. President, I yield 1 minute to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1 minute.

Mr. ROBERTSON. Mr. President, I am opposed to the amendment. I do not believe that we should include anything concerning advertising as to the danger of cigarettes until we include the more dangerous alcohol.

An article was published in the June issue of Reader's Digest, the import of which is that once an alcoholic always an alcoholic, and that we can stop smoking cigarettes but if we become an alcoholic we are gone.

There are more victims of alcohol than there are of lung cancer.

Mr. President, I ask unanimous consent to have printed in the RECORD a brief statement I made before the committee in which I was willing to go along with the bill to label a package of cigarettes

as being possibly dangerous, but that I was against any advertising.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR A. WILLIS ROBERTSON,
DEMOCRAT, OF VIRGINIA

Mr. Chairman, I wish to endorse the position taken before your committee on March 24 by Mr. Bowman Gray, of Winston-Salem, N.C., speaking for the cigarette industry, and which has been concurred in by the tobacco growers of my State, that if there is to be legislation on the health issues involved in cigarette smoking, it be spelled out in detail by Congress and be limited to a statement on the cigarette package.

Here is a digest of Mr. Gray's testimony:

"We are strongly opposed to these bills. We do not believe any governmental action is necessary or called for with respect to cigarette advertising or labeling.

"However, if such action is to be taken, we believe it should be taken by the Congress—and by no one else. State and municipal governments are certainly not the agencies who should take action in this matter. The problem is national in scope; it is clearly not local.

"Similarly, we do not believe that a single Federal administrative agency is the proper body to take such action. It is wholly inappropriate, therefore, for a decision of this scope to be made by the Federal Trade Commission, or by any other single Federal administrative agency whose jurisdiction and expertise are confined to one particular phase of this complex problem. I repeat: This matter should be handled by the Congress and by no one else."

After contending any notice is unnecessary, Mr. Gray continued:

"If—in spite of these considerations—the Congress should conclude that a caution notice on the package would serve a useful purpose, I hope it will consider the following points.

"First, any such legislation should make absolutely clear that the congressional statute preempts the field. It would be intolerable if the States and Federal agencies were to remain free to pass conflicting laws or to impose conflicting regulations on this subject.

"If there is to be a caution notice, its exact terms should be prescribed by the Congress, and the caution should be uniform among all manufacturers and nationwide in scope.

"Second, the required caution should be phrased in a fair and factual manner.

"Third, if a warning is to be required on the package, it should not be required in cigarette advertising."

Mr. Gray mentioned a House bill which carries this suggestion, "Caution, cigarette smoking may be hazardous to your health." Mr. Gray said this is, "simple and I think quite understandable." Mr. Gray also quoted the Magnuson bill as requiring, "Warning, continual cigarette smoking may be hazardous to your health."

Mr. Gray added that "Both of these are simple and I think direct. They say what apparently some people want to say. If it has to be there, I don't think I would have great objection to either of these."

The pending bills, seeking to put smokers on notice of the views of our Public Health Service that the smoking of cigarettes is injurious to health, affect an industry that is very vital to my home State of Virginia.

Like Mr. Gray, I think Virginia cigarette manufacturers could live with a requirement for a health hazard notice on the cigarette package.

But I would not go along with broader leg-

islation that would require a similar notice in all cigarette advertising.

I am also opposed to requiring that the label on cigarette packages include any estimate of the average tar and nicotine yield in each cigarette.

Finally, I agree with spokesmen for the industry that whatever is done should be decided by Congress and not delegated to an administrative agency.

Perhaps my position could be met by some changes in the Magnuson bill.

More than 86,000 Virginians earn their living in whole or in part from tobacco. These people cover a broad spectrum of occupations—farmers, factory workers, and small retailers. Anything that concerns tobacco concerns them.

Of all the States in which tobacco is grown, Virginia ranks fourth in tobacco cash receipts. In 1962 these amounted to \$102,400,000, which I think you will agree is quite a lot of money.

Virginia ranks third in total income from tobacco processing and handling. It ranks second in cigarette manufacturing, turning out a product valued at \$559,668,000, excluding excise. Virginia also ranks fourth in number of tobacco farms. There are no fewer than 34,770 of them, most of them quite small.

Thus, an important issue of welfare to our State and its people is involved in your deliberations. I count it a matter of grave urgency to ask this committee to consider the bills now before it with the utmost discretion.

I am sure there are some Virginians who are convinced cigarettes are injurious to health, and these citizens also are entitled to have their viewpoint considered.

I am inclined to believe there is still another group of people who are willing to concede that cigarettes may do them some harm, but are willing to take a chance that they will not have lung cancer.

Mr. KENNEDY of Massachusetts. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I am glad to yield to the Senator from Massachusetts.

Mr. KENNEDY of Massachusetts. Does the Senator from Virginia smoke at all?

Mr. ROBERTSON. I used to smoke, but when I contracted pneumonia I had to stop; and I said to myself, "Why start again?"

Mr. BASS. Mr. President, will the Senator from Kentucky yield me 3 minutes?

Mr. MORTON. Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes.

Mr. BASS. Mr. President, I wish to speak specifically and address myself directly to what the amendment would do in the field of advertising.

The bill before us allows and requires a warning that there may be some hazard in smoking. None of us denies that there might be a hazard involved. It is fair to say that if there is a hazard, the American public is educated to the possibility of that hazard and no one in the Senate is today objecting to the labeling of cigarettes, but let us get back specifically to advertising.

Mr. President, the advertising of cigarettes does not say, "Come on everyone and start smoking." It only recommends

that we smoke. What cigarette advertising does is to give the manufacturer of the cigarette and the retailer of the cigarette the opportunity to implore—if that is a good word to use—and to urge that such and such a commodity versus some other commodity should be purchased. In other words, they are advertising for a choice of brand of cigarette.

I have never seen an advertisement in my life on television, or heard one on the radio, or read one in the newspaper which said to me in effect that everyone should smoke, that it is a great thing to do and let us all smoke. However, I have seen advertising—and it is perfectly legitimate—in the field of free advertising, the free choice on television, radio, and in the newspapers, and freedom of the press, that if a commodity is not outlawed, if it is for sale in the United States of America, the manufacturer and the retailer of that commodity should be allowed to advertise his commodity, and the American people should have the opportunity to make a choice in favor of their product versus someone else's in the same field. All we are trying to say in the pending amendment is that the advertising of cigarettes is dangerous itself.

It is not dangerous. It is only in the field of good business management in the free economy of this Nation that any company should be allowed to advertise the product which it manufactures as opposed to the choice of another commodity in the same field.

The amendment of the Senator from Oregon would provide that for 1 more year the manufacturers of cigarettes can promote the choice of their brands but that after that time there will be no choice, that advertising—regardless of what kind of cigarettes we smoke—will show only that smoking is dangerous; that we should not smoke, but if we do we shall pay for it.

The amendment is strictly one which is not necessary. I believe that there should be a 3-year period in which to study this problem and allow free advertising and free promotion of an individual commodity.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that the call for the quorum which I am about to request be not be charged to the time limitation.

Mr. ANDERSON. Mr. President, reserving the right to object, would the Senator from Oregon mind my bringing up the conference report on the space authorization bill at this time, without any time being charged, of course, against either side?

Mr. MORTON. Mr. President, I ask unanimous consent that the Senator from New Mexico be allowed to submit the conference report on the authorization for appropriations for NASA, and that the time not be taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8371) to reduce excise taxes, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLS, Mr. KING of California, Mr. Boggs, Mr. KEOGH, Mr. BYRNES of Wisconsin, Mr. CURTIS, and Mr. UTT were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7717) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes.

AUTHORIZATION FOR APPROPRIATIONS FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—CONFERENCE REPORT

Mr. ANDERSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7717) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and administrative operations, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of June 15, 1965, pp. 13195-13196, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. ANDERSON. Mr. President, the total authorization request for fiscal year 1966 was for \$5,260 million. The House, in acting on H.R. 7717, authorized a total of \$5,183,844,850. In acting on the Senate amendments to H.R. 7717, the Senate agreed to a total authorization of \$5,196,826,350. In conference the two Houses recommend a total authorization of \$5,190,396,200. This final figure is \$69,603,800 less than the original administration's request, \$6,551,350 more than was originally approved by the House, and \$6,430,150 less than approved by the Senate.

In arriving at this total amount the conferees recommend a total of \$4,536,971,000 for research and development. This amount represents \$38,929,000 less than was requested for research and development by NASA, \$150,000 less than

was approved by the House, and \$3,621,000 more than was approved by the Senate.

The amount recommended for construction of facilities is \$62,376,350 which is \$12,323,650 less than was requested by NASA for construction of facilities, \$1,701,350 more than was approved by the House and \$5 million less than was approved by the Senate.

The conferees recommend a total of \$591,048,850 for administrative operations. This amount is \$18,351,150 less than NASA's request for administrative operations, \$5 million more than approved by the House and \$5,051,150 less than approved by the Senate.

Mr. President, I believe that some explanation should be made with respect to the action taken by the conferees on several items.

M-1, SNAP-8, AND 260-INCH MOTOR PROJECTS

NASA did not request funds for the SNAP-8 space nuclear power system, the M-1 engine and the 260-inch solid motor projects for fiscal year 1966. The House Space Committee, however, strongly urged the continuation of these three projects believing they will be necessary for NASA's future propulsion needs. The House committee, therefore, recommended an authorization, subsequently approved by the House, of \$6 million for SNAP-8, \$15 million for the M-1 engine, and \$6.2 million for the 260-inch large solid.

Your committee recommended that no funds be authorized by the SNAP-8 and the M-1 projects but that \$6.2 million be authorized for the 260-inch solid motor project, with the further recommendation that the \$6.2 million for the 260-inch large solid project should not be appropriated until the administration concluded, after the completion of phase I, that it wishes to move into phase II of the project. This recommendation was approved by the Senate.

In conference, the conferees agreed to recommend the authorization of \$6 million for SNAP-8 and \$7.5 million for the M-1 engine project. The \$6.2 million for the 260-inch large solid project was not an item in conference, both Houses having previously agreed to the amount.

The Senate conferees considered that these projects are long-range research and development projects dealing with new propulsion and auxiliary power techniques which might be necessary to future space mission needs and that the Senate has in the past supported such research and development; therefore, the conferees agreed to recommend that funds be authorized for the M-1 and SNAP-8 projects. Such authorization would give the administration some flexibility if the President determines that these programs should be continued. However, the House and Senate conferees also agreed that the authority given for the M-1 and SNAP-8 projects be utilized only for these particular projects in the amounts agreed upon and that this authority should not be reprogramed into other projects. Your conferees felt that in the interest of sound economy this restriction should be applied so that the

restoration of an additional \$13.5 million could be used only for these purposes. The conferees further agreed that this should be the only restriction that should be made applicable to the 260-inch large solid motor project as well as to the two items in conference.

Mr. President, the House statement of managers on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7717) to authorize appropriations to NASA says, with respect to the SNAP-8 project, and I quote, "The conferees stipulated first, that the SNAP-8 project shall be continued, and second, that the funds authorized for SNAP-8 shall be utilized for no other purpose." Mr. President, I agree with the second statement but I do not recall "that the conferees stipulated that the SNAP-8 project shall be continued." Rather, what we did was agree to recommend an authorization of \$6 million for the SNAP-8 project with the stipulation that the \$6 million in authority could be used for no other purpose. This is clearly a strong recommendation to continue the project but we did not stipulate that it shall be continued.

APOLLO PROGRAM

With respect to the Apollo program, NASA requested a total of \$2,967,385,000 to fund the Apollo program. The House reduced this amount by \$30 million on an across-the-board basis. The Senate, in considering the total program request, assessed a reduction of \$24 million specifically against the Apollo extension systems program, resulting in the net effect of restoring \$6 million of the House reduction.

The Senate reduction was based on the extensive planning amounts previously authorized from which no comprehensive program has been formulated and presented, and on the desire to promote the utmost selectivity in post-Apollo planning and prevent the conduct of studies solely for study's sake. On the other hand, the Senate has been a strong advocate of permitting NASA the utmost flexibility in managing its programs including the freedom to program funds as dictated by the best interests of the overall space endeavor. Consequently, in accordance with the foregoing management philosophy and in view of interests of the House in effecting the maximum economies within the total Apollo program, your conferees agreed that NASA would not be required to make a specific reduction against a specific project within the Apollo program but may utilize authorized funds for the Apollo program as NASA management believes will best promote the overall program.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the amounts requested by NASA, the results of the original House and Senate action with respect to these amounts, and the amounts recommended by the conference committee action on these items wherein the House and the Senate disagreed.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Action of conference committee on NASA authorization request for fiscal year 1966 (H.R. 7717)

	Budget request	House approved	Senate approved	June 10, 1965, conference committee approved
Research and development:				
Gemini.....	\$242,100,000	\$242,100,000	\$242,100,000	\$242,100,000
Apollo.....	2,997,385,000	2,967,385,000	2,973,385,000	2,967,385,000
Advanced missions.....	10,000,000	10,000,000	10,000,000	10,000,000
Physics and astronomy.....	172,100,000	160,500,000	165,900,000	165,900,000
Lunar and planetary exploration.....	215,615,000	213,115,000	213,115,000	213,115,000
Bioscience.....	31,500,000	31,500,000	31,500,000	31,500,000
Meteorological satellites.....	42,700,000	42,700,000	42,700,000	42,700,000
Communication satellites.....	2,800,000	2,800,000	2,800,000	2,800,000
Applications technology satellites.....	28,700,000	28,700,000	28,700,000	28,700,000
Launch vehicle development.....	63,600,000	60,600,000	63,600,000	63,600,000
Launch vehicle procurement.....	194,500,000	179,500,000	178,700,000	178,700,000
Space vehicle systems.....	35,000,000	35,000,000	35,000,000	35,000,000
Electronics systems.....	34,400,000	34,400,000	34,400,000	34,400,000
Human factor systems.....	14,900,000	14,900,000	14,900,000	14,900,000
Basic research.....	22,000,000	22,000,000	22,000,000	22,000,000
Nuclear-electric systems.....	27,000,000	33,000,000	27,000,000	33,000,000
Nuclear rockets.....	58,000,000	58,000,000	58,000,000	58,000,000
Solar and chemical power.....	14,200,000	14,200,000	14,200,000	14,200,000
Chemical propulsion.....	30,000,000	51,200,000	36,200,000	43,700,000
Aeronautics.....	42,200,000	42,200,000	42,200,000	42,200,000
Tracking and data acquisition.....	246,200,000	242,321,000	246,200,000	242,321,000
Sustaining university program.....	46,000,000	46,000,000	46,000,000	46,000,000
Technology utilization.....	5,000,000	5,000,000	4,750,000	4,750,000
Total.....	4,575,900,000	4,537,121,000	4,533,350,000	4,536,971,000
Construction of facilities:				
Ames Research Center.....	2,749,000	2,749,000	2,749,000	2,749,000
Electronics Research Center.....	10,000,000	Deleted	10,000,000	5,000,000
Goddard Space Flight Center.....	2,400,000	2,400,000	2,400,000	2,400,000
John F. Kennedy Space Center.....	8,595,000	7,854,400	8,195,000	8,195,000
Langley Research Center.....	8,250,000	8,250,000	8,250,000	8,250,000
Lewis Research Center.....	867,000	867,000	867,000	867,000
Manned Spacecraft Center.....	4,400,000	3,953,300	4,180,000	4,180,000
George C. Marshall Space Flight Center.....	4,776,000	4,291,100	2,309,450	2,309,450
Michoud Plant.....	300,000	269,500	284,750	284,750
Mississippi Test Facility.....	2,121,000	1,905,600	1,910,450	1,910,450
Wallops Station.....	1,048,000	1,048,000	1,048,000	1,048,000
Various locations.....	21,694,000	19,871,400	20,182,700	20,182,700
Facility planning and design.....	7,500,000	7,215,700	5,000,000	5,000,000
Total.....	74,700,000	60,675,000	67,376,350	62,376,350
Administrative operations.....	609,400,000	586,048,850	596,100,000	591,048,850
Grand total.....	5,260,000,000	5,183,844,850	5,196,826,350	5,190,396,200
	Research and development	Construction of facilities	Administrative operations	Total
Total.....	\$4,536,971,000	\$62,376,350	\$591,048,850	\$5,190,396,200
Difference from NASA request.....	-38,929,000	-12,328,650	-18,351,150	-69,608,800
Difference from Senate approved.....	+3,621,000	-5,000,000	-5,051,150	-6,430,150
Difference from House approved.....	-150,000	+1,701,350	+5,000,000	+6,551,350

Mr. ANDERSON. Mr. President, I hope that the conference report will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

CIGARETTE LABELING

The Senate resumed the consideration of the bill (S. 559) to regulate the labeling of cigarettes and for other purposes.

Mrs. NEUBERGER. Mr. President, I suggest the absence of a quorum.

Mr. MORTON. Mr. President, with the understanding that the time will not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. NEUBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. NEUBERGER. Mr. President, if there is no further debate on my amendment, I ask for a vote on it.

The PRESIDING OFFICER. The

question is on agreeing to the amendment of the Senator from Oregon [Mrs. NEUBERGER]. On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware (when his name was called). On this vote I have a pair with the Senator from Kansas [Mr. PEARSON]. If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. BENNETT (when his name was called). On this vote I have a pair with the Senator from Vermont [Mr. PROUTY]. If he were present and voting, he would vote "nay"; if I were permitted to vote, I would vote "yea." I withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from West Virginia [Mr. BYRD], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. McNAMARA], the Senator from New Mexico [Mr. MONTOYA], the Senator from Utah [Mr.

MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Florida [Mr. SMATHERS], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I further announce that the Senator from Georgia [Mr. RUSSELL] and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. MOSS] would vote "yea."

On this vote, the Senator from Indiana [Mr. BAYH] is paired with the Senator from West Virginia [Mr. BYRD]. If present and voting, the Senator from Indiana would vote "yea" and the Senator from West Virginia would vote "nay."

On this vote, the Senator from Ohio [Mr. LAUSCHE] is paired with the Senator from Alaska [Mr. GRUENING]. If present and voting, the Senator from Ohio would vote "nay" and the Senator from Alaska would vote "yea."

On this vote, the Senator from West Virginia [Mr. RANDOLPH] is paired with the Senator from Michigan [Mr. McNAMARA]. If present and voting, the Senator from West Virginia would vote "yea" and the Senator from Michigan would vote "nay."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from New York [Mr. JAVITS] is necessarily absent.

The Senator from Kansas [Mr. PEARSON] is absent on official committee business, and his pair has been previously announced.

The Senator from Colorado [Mr. DOMINICK] is detained on official business.

The pair of the Senator from Vermont [Mr. PROUTY] has been previously announced.

On this vote, the Senator from New York [Mr. JAVITS] is paired with the Senator from Colorado [Mr. DOMINICK]. If present and voting, the Senator from New York would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 29, nays 49, as follows:

[No. 140 Leg.]

YEAS—29

Burdick	Kennedy, N.Y.	Nelson
Cannon	Long, La.	Neuberger
Case	Mansfield	Pastore
Church	McCarthy	Pell
Clark	McGovern	Proxmire
Dodd	McIntyre	Ribicoff
Douglas	Metcalf	Smith
Harris	Mondale	Tydings
Hart	Monroney	Young, Ohio
Kennedy, Mass.	Morse	

NAYS—49

Aiken	Fannin	Morton
Allott	Gore	Mundt
Anderson	Hartke	Murphy
Bartlett	Hickenlooper	Robertson
Bass	Hill	Russell, S.C.
Bible	Holland	Saltonstall
Boggs	Hruska	Scott
Brewster	Inouye	Simpson
Byrd, Va.	Jackson	Sparkman
Carlson	Jordan, N.C.	Stennis
Cooper	Jordan, Idaho	Symington
Cotton	Kuchel	Thurmond
Curtis	Long, Mo.	Tower
Dirksen	Magnuson	Williams, N.J.
Eastland	McClellan	Young, N. Dak.
Ellender	McGee	
Ervin	Miller	

NOT VOTING—22

Bayh	Javits	Randolph
Bennett	Lausche	Russell, Ga.
Byrd, W. Va.	McNamara	Smathers
Dominick	Montoya	Talmadge
Fong	Moss	Williams, Del.
Fulbright	Muskie	Yarborough
Gruening	Pearson	
Hayden	Prouty	

So. Mrs. NEUBERGER's amendment was rejected.

Mr. MORTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENTS NOS. 273, 274, AND 275

Mrs. NEUBERGER. Mr. President, I call up my amendments Nos. 273, 274, and 275. I ask that they be considered en bloc, and that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. The amendments will be considered en bloc. Without objection, they will be printed in the RECORD.

The amendments considered en bloc are as follows:

AMENDMENT NO. 273

On page 3, line 18, insert "by the Federal Trade Commission" after "be required".

AMENDMENT NO. 274

1. On page 2, line 16, insert the designation "(a)" after "Sec. 3."

2. On page 3, after line 9, add the following:

"(b) Section 2 of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1261) is amended by—

"(1) adding at the end of subparagraph 1. of paragraph (f) thereof the following new clause: '(D) any cigarette.';

"(2) inserting the following in paragraph (p) thereof after the word 'means': ', except in the case of cigarettes.'; and

"(3) adding after paragraph (p) thereof the following new paragraph:

"(q) The term 'misbranded package' or 'misbranded package of a hazardous substance' means, in the case of cigarettes, a package or other container in which any cigarette or cigarettes are, or are intended to be, offered for sale, sold, or otherwise supplied to consumers, if either—

"(1) it fails to bear, in accordance with regulations of the Secretary, a label that sets forth (A) the health-hazard warning required by the Federal Cigarette Labeling Act, and (B) the average yield or other appropriate index (determined by a method prescribed or approved by the Secretary) of each of those components (or combination of components) of the smoke from such cigarettes the disclosure of which on the label will in the Secretary's judgment aid the consumer in making meaningful choices in relation to the health hazard involved in smoking, or

"(2) words, statements, designs, or other graphic material on the label or in accompanying displays or literature in any manner negate or disclaim, directly or indirectly, any statement required by or pursuant to subparagraph (1) or incorrectly suggest that the smoking of such cigarettes is less hazardous than that of others."

"(c) (1) Section 11 of such Act (15 U.S.C. 1270) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may by general regulation, or by special order with respect to any

particular product, require manufacturers or processors of cigarettes to establish and maintain records, and to make reports to him, as to the ingredients (including additives) in cigarette tobacco."

"(2) Section 4(e) of such Act (15 U.S.C. 1263(e)) is amended by inserting the following before the period at the end thereof: ', or the failure to establish or maintain records or make reports as required pursuant to section 11(d) or to permit access to and copying of such records by the Secretary'.

"(3) Section 4(h) of such Act (15 U.S.C. 1263(h)) is amended by inserting '(or to the Federal Trade Commission in the case of information obtained under section 11(d))' after 'Department', and by striking out 'of' between 'method' and 'process' and inserting in lieu thereof 'or'."

AMENDMENT NO. 275

On page 2, line 20, strike out "May be" and insert "Is".

On page 2, line 21, strike out "Your".

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mrs. NEUBERGER. I yield.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mrs. NEUBERGER. Mr. President, for the convenience of Senators at this hour, I announce that my argument for the three amendments will take a very short time. If Senators will listen patiently, I believe the amendments can be disposed of in a short time.

AMENDMENT NO. 273

Mr. President, amendment No. 273 deals with the preemption feature.

Section 4(a) preempts for the Federal Government the field of health hazard labeling of cigarette packages on the understandable grounds that the Federal labeling requirement ought to serve as the uniform standard across the Nation. The justification for the Federal preemption of health hazard warnings in cigarette advertising, as found in section 4(b) is not obvious at all.

Section 4(b) puts the Federal Government in the position of saying that cigarette smoking constitutes a serious health hazard, but that the traditional guardians of public health, the State and local authorities, cannot act to protect their citizens by requiring a health hazard warning in television and radio advertising emanating from their domains. It is one thing to favor Federal preemption in an area where Congress takes action, such as the proposed cigarette labeling provision. It is quite another when Congress refuses to act at all. The fact that the majority of the Commerce Committee did not wish at this time to recommend a cigarette advertising warning seems slender grounds for imposing that judgment on all other legislative and health authorities in the United States.

I recommend that section 4(b) be amended to read: "No statement relating to smoking and health shall be required by the Federal Trade Commission in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act."

AMENDMENT NO. 274

The second amendment, amendment No. 274, has to do with tobacco components and additives.

A great discussion took place in the committee as to whether the components and additives of the product should be required to be stated on the label of the package. It was suggested that in the authority to extend the analytical methods to be used and the manner in which the information is presented to the consumer there be a stipulation of the components and additives on the package.

I hope that the bill will be amended to include those recommendations, as they are in the spirit of the original provision, which was found technically sound.

AMENDMENT NO. 275

I fully concur with the report that the American people will not be convinced of the health hazards of smoking until the Federal Government takes affirmative action which manifests its concern. One affirmative action which serves the public interest is a warning statement on each cigarette package.

The language which was adopted is "Caution: Cigarette smoking may be hazardous to your health." The justification in the report for this particular choice of words reads: "Such cautionary statement should be short and direct, and should not be weakened in its impact by any qualifying adjectives, such as 'excessive,' 'continual,' or 'habitual.'" Why the same stricture does not apply to qualifying verbs, such as "may be," is not made clear. It would seem that a cautionary statement consistent with fact and brevity might better read: "Caution: Cigarette smoking is hazardous to health." I recommend that section 3 of S. 559 be amended to include this language.

The warning statement on the cigarette package is welcome because it demonstrates official recognition of the health problem facing our Nation, but it does not make a direct contribution to the main purpose of the legislation. The value of a warning statement is dependent on the response to it. The hearings demonstrate that the warning statement on the package is not anticipated to act as a deterrent. Not one member of the committee who spoke on the issue during the public hearings, nor any witness before the committee, appeared to believe that the inclusion of a warning statement on the package would have any or more than minimal effect on cigarette consumption. One obvious reason for this is that the cigarettes are already in hand and paid for by the time the warning is read.

Mr. MORTON. Mr. President—

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MORTON. As I understand the parliamentary situation, the three amendments are being offered en bloc.

The PRESIDING OFFICER. The Senator is correct.

Mr. MORTON. I yield myself 3 minutes.

AMENDMENT NO. 273

The effect of amendment No. 273 would be to leave State and local agencies free to prohibit outright the advertising or even the sale of cigarettes, if they saw fit to do so.

Cigarette advertising is national in scope, appearing, for example, in national magazines and network television programs. A multiplicity of State and local forms of warning for cigarette advertising would result in a crazy patchwork of regulation.

The problem of smoking and health is national in scope. It is clearly one in which Congress should occupy the field. When we are convinced that more stringent regulation of cigarette advertising is needed, then we should vote for it. Until then, the manufacturers and advertisers should not be plagued with a hodgepodge of conflicting State and local laws, and national television, across State lines. The problem of cigarette smoking is national in scope. It is clearly one in which Congress in my opinion should occupy the field.

AMENDMENT NO. 274

Amendment No. 274 would require the Department of Health, Education, and Welfare to determine those components in cigarette smoke whose listing on the label will "aid the consumer in making meaningful choices in relation to the health hazard involved in smoking," and would require the label to bear the average yield of each of such components.

This requirement is premature. The Surgeon General testified before the committee that "while it seems at least plausible that cigarettes with lower tar and nicotine may present lesser health hazards, there is presently no proof that this is so." He agreed that "further study" was necessary before he could recommend that particular ingredients be singled out for labeling.

Should there be a breakthrough in identifying those ingredients in cigarette smoke which are responsible for the hazard, the annual report required from the FTC and the Department of Health, Education, and Welfare would certainly ask Congress for adequate authority to take the necessary remedial action. At that time, we may well decide to ban the sale of cigarettes unless those ingredients are removed.

AMENDMENT NO. 275

The final amendment relates to changing the warning from "Caution: Cigarette smoking may be hazardous to your health" to "Caution: Cigarette smoking is hazardous to health."

The language in the amendment strongly implies that everyone who smokes will be harmed. The fact is that not every smoker will get lung cancer or heart disease. There is no evidence, for example, that the smokers of one-half pack or less a day of high filtration cigarettes incur any significant risk to their health.

Mr. HART. Mr. President—

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Oregon en bloc.

Mr. DOUGLAS. Mr. President, I ask for a division.

Mr. MANSFIELD. Mr. President, the Senator from Michigan seeks recognition. He was seeking recognition before the question was put.

The PRESIDING OFFICER. Who yields time?

Mrs. NEUBERGER. I yield time to the Senator from Michigan.

Mr. HART. Mr. President, as we vote on the amendments, I hope that very careful thought will be given to amendment No. 274. Adoption of that amendment would permit us to make a reasonably sound claim that what we are engaged in is not shadowboxing. Even with the addition of the amendment, there is great likelihood that we would overstate the significance of the action we are taking. As a parent of eight children, I have grave doubts that Congress will really effectively persuade the youth of America that they ought not to smoke.

As a parent, I have not found a word formula, in the case of the older children, that will persuade them, either. I would hope that we would provide in the proposed legislation a requirement that the label shall include information with respect to which the Secretary feels a consumer can make a meaningful choice in regard to the health hazard involved. That is precisely what amendment No. 274, which is included in the amendments now being considered en bloc, offered by the Senator from Oregon, would require.

The amendment would give the Secretary of Health, Education, and Welfare authority, through amendment of the Federal Hazardous Substances Labeling Act, to require the cigarette package label to contain a statement of the average yield of the components, the disclosure of which in the Secretary's judgment would aid the consumer in making a meaningful choice vis-a-vis the health hazards of cigarettes.

The amendment also provides for the Secretary of Health, Education, and Welfare to have authority to require a listing of the ingredients, including additives, of cigarettes.

The purpose of the amendment is the same as the "tar and nicotine" provisions of the original bill, but the words "tar" and "nicotine" are not precise enough to be accurate.

I believe the amendment would be most useful.

The PRESIDING OFFICER (Mr. BARTLETT in the chair). A division has been requested on the amendments en bloc.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Florida will state it.

Mr. HOLLAND. Is a division being requested?

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLAND. Is the Senate about to vote by a division?

The PRESIDING OFFICER. That is what the Senate is about to do.

On a division, the amendments, en bloc (Nos. 273, 274, and 275), were rejected.

Mr. MAGNUSON. Mr. President—
The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield myself as much time as I may need on the bill.

Mrs. NEUBERGER. Mr. President, I yield to the Senator from Washington as much time as we have remaining.

Mr. MAGNUSON. In the Appendix to the hearings of the Committee on Commerce, beginning at page 218, part II, there is a great deal of material on this subject that is written in French and German. They are studies by eminent scientists from France and Germany. I ask unanimous consent that the Library of Congress be authorized to translate the material.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MORTON. Mr. President, I yield 5 minutes to the Senator from North Carolina [Mr. JORDAN].

Mr. JORDAN of North Carolina. Mr. President, there are a great many reasons which compel the Senate to act with care and caution in connection with the labeling of cigarettes.

As all of us know, the controversy over the effects of smoking on health has been going on for a long time, and even in a day when science and technology give us the know-how to send men into outer space, there are still many unknowns about the relationship between smoking and health. With our vast scientific knowledge, we still do not know, as a matter of actual fact, whether or not smoking is harmful to health.

There is a wide divergence of views concerning this entire matter. Many competent scientists are convinced that smoking is harmful to health. At the same time, many competent scientists are convinced that there is no relationship.

Perhaps more important than all of this, no one yet knows what substance, if any, in tobacco is guilty of causing harmful effects on health. For this reason, in taking any action in the area of labeling cigarettes, the Senate is moving in uncharted waters.

I have followed with a great deal of interest the work of the Senate Committee on Commerce in connection with the various proposals to label cigarettes, and it is my feeling that the committee has exercised a great deal of care in this entire matter, and I am hopeful that the Senate will approve, without amendment, the bill the committee has reported.

Mr. President, I should like to read from the hearings a few lines from the statement which was made by Mr. Bowman Gray, chairman of the board of R. J. Reynolds Tobacco Co., Winston-Salem, N.C., who made an excellent statement. Incidentally, he was the spokesman for practically all the cigarette manufacturers in the United States. Mr. Gray said:

Let me summarize at the outset—very briefly—the premises which govern what I shall say.

First, the tobacco industry is profoundly conscious of the questions concerning smoking and health.

At the beginning of 1954, most of the cigarette manufacturers, as well as a number of organizations representing growers of leaf tobacco, formed the tobacco industry research committee—now named the Council for Tobacco Research, U.S.A.—to finance research in matters relating to tobacco and health.

Through its scientific advisory board, composed of eminent and independent medical scientists, grants for research have been made totaling over \$7 million to some 240 scientists in more than 100 hospitals, universities, and research institutions across the country.

In addition, companies individually have given substantial support to other research in the area of smoking and health.

Further, in January 1964, the six largest cigarette manufacturers pledged \$10 million to the American Medical Association Education and Research Foundation for research into the possible relationship between smoking and health.

As of the end of January this year, this foundation had approved 35 grants for research involving estimated expenditures of over \$2,900,000.

Mr. President, cigarette manufacturers are keenly aware of the controversy that has been raging in this country for many years as to whether cigarette smoking is harmful or is not. The hearings are filled with contradictory statements made by eminent scientists, educators, and other persons. The cigarette manufacturers, as has been stated today, have created a self-policing advertising program.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. MORTON. I yield an additional minute to the Senator from North Carolina.

Mr. JORDAN of North Carolina. No sensible cigarette manufacturer would attempt to sell a product that he knew would "kill off" his customers.

Mr. KENNEDY of New York. Mr. President, will the Senator from Oregon yield me 1 minute?

Mrs. NEUBERGER. I yield 1 minute to the Senator from New York.

Mr. KENNEDY of New York. I intend to vote against the bill. If this bill is passed, it will be of great help to the cigarette and tobacco industries. Whatever good effect flows from the requirement of a label on the package—and I do not think it will amount to much—it will be far outweighed by the advantage that the 3-year ban on efforts to require a warning in advertising will give to the cigarette companies. Overall, therefore, I think the bill as presented for a final vote is against the interests of the people of the United States. It is particularly against the interests of our young people, many of whom are only beginning to smoke.

The cigarette industry will in any event have a lengthy period of delay during a court test of the Federal Trade Commission's Trade Regulation Rule. To add another 3 years to that would be wrong. And let us not forget that the House is now considering a version of this bill which would take away the jurisdiction of the FTC and States in this area entirely.

I shall vote against the bill, but I want to say one other thing, to help guide our actions in the future. No matter whether Senators vote for or against the bill, all Senators should be watching the actions of the voluntary organization, headed by former Governor Meyner, which is supposed to establish a code on behalf of the cigarette industry. For if that group does not take significant steps

to reform the pattern of cigarette advertising, we in the Congress should act affirmatively to accomplish the job ourselves. We cannot continue to allow cigarette advertising to fail to tell our young people of the dangers they subject themselves to when they start smoking.

Mr. CLARK. Mr. President, will the Senator yield me 30 seconds?

Mrs. NEUBERGER. Mr. President, I yield 30 seconds to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 30 seconds.

Mr. CLARK. Mr. President, for the reasons stated by the Senator from New York, I, too, shall vote against the pending bill.

I see no excuse for Congress interfering with the administrative practices of the Federal Trade Commission.

We should encourage them and give them assistance and make it easier for the Commission to prevent thousands of Americans from being killed by lung cancer every year.

Mrs. NEUBERGER. Mr. President, I yield 30 seconds to the senior Senator from Oregon.

Mr. MORSE. Mr. President, I am persuaded by the statements of the Senator from New York [Mr. KENNEDY] and the Senator from Pennsylvania [Mr. CLARK]. However, I find myself in the position in which my colleague tells me that this is a start and is better than nothing at all.

On the basis of that advice, on which I shall rely, I shall vote for the bill. However, I believe that there is great merit in the position expressed by the Senator from New York and the Senator from Pennsylvania.

Mrs. NEUBERGER. Mr. President, I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. Mr. President, the bill is a start in the right direction. The tobacco producers would have taken the Federal Trade Commission into court. The litigation would have taken at least 4 or 5 years. On the other hand, if the bill passes, the tobacco interests will have to start placing a warning on the package by this November.

I agree with the statement that this is only a start. However, it is a very sensitive area.

I believe that we have a responsibility to do this. I hope that it will work. I hope that it will do what the Senator from New York suggests. It would certainly be better than having the whole matter thrown into court for a period of perhaps 4 or 5 years.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. NEUBERGER. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 1 minute.

Mrs. NEUBERGER. Mr. President, I sympathize with, and am very much impressed by, the argument of the Senator

from Pennsylvania and the Senator from New York.

The only reason that I shall support the bill, in spite of the arguments that have been made, is that I believe that this is the first time in the history of the United States that our Government will have gone on record as showing that it is believed there is some relation between smoking and disease.

I believe that an educational process is going on. It is a proper field for the Government of the United States.

Mr. President, I yield back the remainder of my time.

Mr. MORTON. Mr. President, I yield myself 1 or 2 minutes, and then I shall yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. Mr. President, there has been much dust kicking around concerning a 3- or 4-year period of time.

What does the bill provide? The bill provides that 120 days after the bill is signed into law, the statement, "Caution, Cigarette Smoking May Be Hazardous to Your Health," must go on every package of cigarettes in a certain contrasting color and a certain type and size.

That is not 3 or 4 years.

At the outset of the debate, I said that the consideration should be health above all else. I close on that note.

The bill has the support of my colleague, the senior Senator from Kentucky [Mr. COOPER]. There is not a 3- or 4-year delay. This warning would go on every package of cigarettes 120 days after the bill is enacted into law.

The tobacco producing States are willing to accept this measure.

I believe that we have gone a long way toward the accomplishment of this aim, and taken a good kicking around today.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Indiana [Mr. BAYH], the Senator from Virginia [Mr. BYRD], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUE], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. McNAMARA], the Senator from New Mexico [Mr. MONTOYA], the Senator from Utah [Mr. MOSS], the Senator from Maine [Mr. MUSKIE], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Florida [Mr. SMATH-

ERS], and the Senator from Georgia [Mr. TALMADGE] are absent on official business.

I further announce that the Senator from Georgia [Mr. RUSSELL], and the Senator from Texas [Mr. YARBOROUGH] are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana [Mr. BAYH], the Senator from West Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], the Senator from Virginia [Mr. BYRD], the Senator from Alaska [Mr. GRUENING], the Senator from Hawaii [Mr. INOUE], the Senator from Ohio [Mr. LAUSCHE], the Senator from Michigan [Mr. McNAMARA], the Senator from Utah [Mr. MOSS], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Texas [Mr. YARBOROUGH] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from New York [Mr. JAVITS] is necessarily absent.

The Senator from Kansas [Mr. PEARSON] is absent on official committee business.

The Senator from South Dakota [Mr. MUNDT] and the Senator from Massachusetts [Mr. SALTONSTALL] are detained on official business.

If present and voting, the Senator from Hawaii [Mr. FONG], the Senator from New York [Mr. JAVITS], the Senator from South Dakota [Mr. MUNDT], the Senator from Kansas [Mr. PEARSON], the Senator from Vermont [Mr. PROUTY], and the Senator from Massachusetts [Mr. SALTONSTALL] would each vote "yea."

[No. 141 Leg.]

YEAS—72

Aiken	Harris	Monroney
Allott	Hart	Morse
Anderson	Hartke	Morton
Bartlett	Hickenlooper	Murphy
Bass	Hill	Neuberger
Bennett	Holland	Pastore
Bible	Hruska	Pell
Boggs	Jackson	Proxmire
Brewster	Jordan, N.C.	Ribicoff
Burdick	Jordan, Idaho	Robertson
Cannon	Kennedy, Mass.	Russell, S.C.
Carlson	Kuchel	Scott
Case	Long, Mo.	Simpson
Church	Long, La.	Smith
Cooper	Magnuson	Sparkman
Cotton	Mansfield	Stennis
Curtis	McCarthy	Symington
Dirksen	McClellan	Thurmond
Dodd	McGee	Tower
Domink	McGovern	Tydings
Ervin	McIntyre	Williams, N.J.
Fannin	Metcalf	Williams, Del.
Fulbright	Miller	Young, N. Dak.
Gore	Mondale	Young, Ohio

NAYS—5

Clark	Ellender	Nelson
Douglas	Kennedy, N.Y.	

NOT VOTING—23

Bayh	Javits	Prouty
Byrd, Va.	Lausche	Randolph
Byrd, W. Va.	McNamara	Russell, Ga.
Eastland	Montoya	SaltonSTALL
Fong	Moss	Smathers
Gruening	Mundt	Talmadge
Hayden	Muskie	Yarborough
Inouye	Pearson	

So the bill (S. 559) was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Cigarette Labeling Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "cigarette" means any roll of tobacco, wrapped in paper or any substance other than tobacco.

(b) The term "package" means a package, box, carton or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(c) The term "person" means any individual, partnership, corporation, or any other business or legal entity.

(d) The term "sale or distribution" includes sampling and means of distribution other than sales.

(e) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

LABELING

SEC. 3. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health."

The foregoing statement shall be located on the front or back panel of every package, box, carton or other container in which cigarettes are offered for sale, sold, or otherwise supplied to consumers and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

PREEMPTION

SEC. 4. (a) No statement relating to smoking and health, other than the statement required by section 3 of this Act, shall be required on cigarette packages.

(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

(d) The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

(e) The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act.

CRIMINAL PENALTY

SEC. 5. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$100,000.

INJUNCTION PROCEEDINGS

SEC. 6. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 7. Cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemption shall not apply to cigarettes

manufactured, imported, or packaged for shipment to United States military vessels, installations, or shore-based activities wherever such vessels, installations, or activities may be located.

SEPARABILITY

SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 9. This Act shall take effect one hundred and twenty days after the date of its enactment.

Mr. MORTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE PROGRAM—PRINTING AS A SENATE DOCUMENT OF ANNUAL REPORT OF DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. DIRKSEN. Mr. President, while many Senators are present in the Chamber, I should like to query the majority leader about the program for the rest of the day and tomorrow.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished majority leader, I first ask unanimous consent that the Senate proceed to the consideration of Calendar No. 88, Senate Resolution 107, and that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 107) authorizing the printing of the 67th annual report of the National Society of the Daughters of the American Revolution as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. Mr. President, that will be followed by Calendar 264, H.R. 7777, an act to authorize the President to appoint Gen. William F. McKee, U.S. Air Force, retired, to the office of Administrator of the Federal Aviation Agency. That will be the pending business at the conclusion of the morning hour tomorrow.

Then it is anticipated that the legislation from the District of Columbia Appropriations Subcommittee will be before the Senate on Monday.

On Tuesday it is anticipated that the silver coinage bill will be before the Senate.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. MORSE. I have not had an opportunity to talk with the majority leader about the schedule for Monday, but I plead with him to postpone action on the District of Columbia appropriation bill until Tuesday.

We might work out a unanimous consent agreement for a vote on Tuesday.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE

Washington, D. C. 20250

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OFFICE OF
BUDGET AND FINANCE

(For information only;
should not be quoted
or cited)

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For actions of June 22, 1965
89th-1st; No. 112

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HIGHLIGHTS. House passed cigarette labeling bill. House committee reported public works and economic development bill. House Rules Committee cleared poverty bill. House committee approved feed grains title of farm bill.

HOUSE

1. CIGARETTE LABELING. Passed with amendment S. 559, to regulate the labeling of cigarettes. House conferees were appointed. pp. 13897-913
2. PUBLIC WORKS; ECONOMIC DEVELOPMENT. The Public Works Committee reported with amendment S. 1648, the proposed Public Works and Economic Development Act of 1965 (H. Rept. 539). p. 13943
3. POVERTY. The Rules Committee reported a resolution for consideration of H. R. 8283, to expand the war on poverty and enhance the effectiveness of programs under the Economic Opportunities Act of 1964. p. 13943

4. FEED GRAINS. The Agriculture Committee "approved the feed grains title, as amended by the subcommittee" on H. R. 7097, the farm bill. pp. D557-8
5. APPROPRIATIONS. Passed with amendment H. R. 9220, the public works appropriation bill, which includes funds for St. Lawrence Seaway Development Corporation, Tennessee Valley Authority, Delaware River Basin Commission, Bureau of Reclamation, etc. pp. 13870-90
Made it in order to consider a continuing resolution any day next week.
p. 13867
6. WATER PROJECTS. Received the conference report on S. 1229, to provide uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects (H. Rept. 538). pp. 13867-70
7. DISASTER RELIEF. Rep. Culver spoke in favor of amending the Agriculture Acts to "take into consideration floods and other natural disasters in reference to the feed grains, cotton, and wheat programs for 1965." p. 13942
8. LEGISLATIVE PROGRAM. The Majority Leader announced that the poverty bill would be taken up following the defense appropriation bill. pp. 13942-3

SENATE

9. D. C. APPROPRIATION BILL. Passed with amendments this bill, H. R. 6453. Conferees were appointed. pp. 13819-20, 13824-38
10. EXPORT CONTROL. The Banking and Currency Committee voted to report (but did not actually report) H. R. 7105, to continue the Export Control Act for 4 years.
p. D555
11. TRANSPORTATION. The Commerce Committee voted to report (but did not actually report) S. 1098, to amend the Interstate Commerce Act to insure the adequacy of the national railroad freight car supply (amended); and S. 1727, to provide for strengthening and improving the national transportation system (amended).
p. D555
12. RESEARCH. The Commerce Committee voted to report (but did not actually report) S. 949, to promote economic growth by supporting State and regional centers to place the findings of science usefully in the hands of American enterprise (amended). p. D555
13. TRADE FAIRS. The Commerce Committee voted to report (but did not actually report) H. R. 4525, to continue authority to develop American-flag carriers and promote the foreign commerce of the U. S. through the use of mobile trade fairs. p. D555
14. EDUCATION. Sen. Yarborough spoke in support of his bill, S. 9, the GI education bill, and inserted several letters commending the bill. pp. 13816-7
15. ANIMAL DISEASE. Sen. Aiken inserted a USDA release, "Vermont Holds Three National Records in Animal Disease Eradication, USDA Reports." p. 13802
16. SOIL CONSERVATION. Sen. Hill inserted an editorial, "Charging for SCS Service-- A Bad Move." p. 13807

we would have shown our willingness to submit our cause to the body which, in the words of Senate Concurrent Resolution 36, has "played an important and, at times, crucial role * * * to save succeeding generations from the scourge of war." Let us take the threat to world peace which is Vietnam to the United Nations. Let us not be deterred by myths that we have to ask permission of Hanoi or Peiping before we do.

Mr. DERWINSKI. Mr. Chairman, it is well for us to approve a resolution commending the United Nations, but logic and practicality require that we examine the reason for the deficiencies of that organization.

The deficiencies are basically caused by the Communist practice of using the U.N. for their own diabolical purposes and is complicated by the immaturity of many of the new governments represented there.

The U.N., however, is sorely in need of leadership, more specifically U.S. leadership.

I do not believe in any of the extreme recommendations that we should "get out of the U.N." Neither do I support those who would surrender our autonomy to that body.

What the U.N. needs is a strong, legitimate Secretary General and a strong ambassador representing the United States. One of the great failures of this administration is its unwillingness to provide leadership where it is desperately needed, in the halls of the U.N.

The CHAIRMAN. There being no further requests for time, the Clerk will read the Senate concurrent resolution.

The Clerk read as follows:

S. CON. RES. 36

Whereas the year 1965 marks the twentieth anniversary of the United Nations, which will be celebrated in San Francisco on June 26, 1965; and

Whereas the United Nations General Assembly has designated the year 1965 as "International Cooperation Year"; and

Whereas the President of the United States has proclaimed 1965 as "International Cooperation Year", and has set up a broad program within the executive branch to review our present international policies in cooperation with a bipartisan group of distinguished private citizens; and

Whereas the President has charged those participating in the International Cooperation Year program to "search and explore and canvass and thoroughly discuss every conceivable approach and avenue of cooperation that could lead to peace"; and

Whereas the International Cooperation Year program will culminate in a White House Conference on International Cooperation which the President has announced he will convene in November 1965; and

Whereas during the twenty years of its existence the United Nations has played an important, and at times crucial, role in pursuit of one of its stated purposes "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind"; and

Whereas during that time the United Nations has also performed a valuable service through the specialized agencies and otherwise in helping to establish human rights and to eliminate those ancient enemies of mankind—hunger, poverty, disease, and ignorance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States of America rededicate itself to the principles of the United Nations and to the furtherance of international cooperation within the framework of law and order; and that all other members of the United Nations are urged to do likewise.

SEC. 2. It is further the sense of the Congress that in connection with the examination for International Cooperation Year of United States participation in international cooperative activities, the executive branch should—

(1) review with a high sense of urgency the current state of international peacekeeping machinery with a view to making specific suggestions for strengthening this machinery, (2) review other major elements of international community and cooperation with a view to making specific suggestions to promote the growth of institutions of international cooperation and law and order, and (3) review urgently the status of disarmament negotiations with a view to further progress in reducing the dangers and burden of competitive national armaments.

SEC. 3. In order to provide for participation by the Congress in the White House Conference on International Cooperation, subject to an invitation by the President, there is hereby created a congressional delegation of twelve members to be composed of six members of the Senate appointed by the President pro tempore of the Senate and six members of the House of Representatives appointed by the Speaker of the House of Representatives. A vacancy in the membership of the delegation shall be filled in the same manner as in the case of the original appointments.

Mr. O'KONSKI. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and one Members are present, a quorum.

Mr. GROSS. Mr. Chairman, apparently this resolution will pass, but I call attention to a typographical error in the printed resolution which I think should be corrected before it is acted upon.

Mr. FASCELL. Mr. Chairman, is the gentleman referring to line 17 on page 3?

Mr. GROSS. That is correct.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent that the typographical error be corrected as follows: The word "An" should be "Any".

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise and report the concurrent resolution back to the House with an amendment, with the recommendation that the amendment be agreed to and that the concurrent resolution as amended do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. ASPINALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the concurrent resolution (S. Con. Res. 36) expressing the sense of the Congress with respect to the 20th anniversary of the United Nations during International Cooperation Year, and for other purposes, had directed him to report the

concurrent resolution back to the House with an amendment, with the recommendation that the amendment be agreed to and that the concurrent resolution as amended do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

SUBCOMMITTEE ON DOMESTIC FINANCE OF COMMITTEE ON BANKING AND CURRENCY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Domestic Finance of the Committee on Banking and Currency may sit during general debate on June 23.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMITTEE ON RULES

Mr. DELANEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file certain privileged communications.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TO REGULATE THE LABELING AND ADVERTISING OF CIGARETTES, AND FOR OTHER PURPOSES

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 421 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 121

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-

minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from California [Mr. SMITH] and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 421 makes in order the consideration of H.R. 3014 and provides for an open rule with 3 hours of debate, a bill to regulate the labeling and advertising of cigarettes, and for other purposes.

The principal purpose of the bill is to provide adequate warning to the public of the possible danger and hazards of cigarette smoking by requiring the manufacturers of cigarettes to have printed on the packages the statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health."

This bill has been brought about as the results of studies made by the Surgeon General of the United States and the report made by the Advisory Committee he appointed was adopted by the Department of Health, Education, and Welfare.

The bill applies only to cigarettes and not to other forms of tobacco. The bill does not require the manufacturers of cigarettes to include such a warning in their advertising of the product.

Mr. Speaker, I urge the adoption of House Resolution 421.

CALL OF THE HOUSE

Mr. QUIE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll and the following Members failed to answer to their names:

[Roll No. 149]

Bonner	Holland	Philbin
Bow	Horton	Powell
Brown, Ohio	Karth	Reid, N.Y.
Colmer	Kee	Rivers, Alaska
Conyers	Keith	Rivers, S.C.
Cramer	Kluczynski	Roncalio
Cunningham	Landrum	Steed
Evans, Colo.	Leggett	Thomas
Flood	Lindsay	Toll
Goodell	McVicker	Willis
Hall	Mackie	Wilson,
Harvey, Ind.	Moss	Charles H.
Hawkins	Nedzi	Zablocki
Hays	Patman	

The SPEAKER. On this rollcall, 392 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

Mr. DELANEY. Mr. Speaker, I have no further requests for time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may require.

(Mr. SMITH of California asked and was given permission to revise and extend his remarks.)

Mr. SMITH of California. Mr. Speaker, House Resolution 421 upon its adoption will permit an open rule for the consideration of H.R. 3014, a bill to regulate the labeling and advertising of cigarettes. There is provided 3 hours of general debate under this open rule. As I understand it, according to testimony before the Rules Committee, there is some controversy on this particular measure. There is no controversy, however, so far as the rule is concerned.

As to the bill itself, it was reported out of committee by a vote of 23 to 8. It applies only to cigarette advertising and on each package of cigarettes, 180 days after the enactment of the legislation, this language will have to be placed thereon:

Caution: Cigarette Smoking May Be Hazardous to Your Health.

One of the purposes of this bill, which seems quite reasonable, is that it will preempt the various 50 States from requiring all types of labels. This will then be uniform throughout the 50 States.

Another purpose is that it will prohibit the Federal Trade Commission from interjecting itself into the types of labeling that should be placed on cigarettes.

As I stated, Mr. Speaker, I know of no objection to the rule itself.

Mr. Speaker, I have no further requests for time.

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. HARRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arkansas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3014 with Mr. BROOKS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule the gentleman from Arkansas [Mr. HARRIS] will be recognized for 1½ hours and the gentleman from Illinois [Mr. SPRINGER] will be recognized for 1½ hours.

The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I yield myself 15 minutes.

(Mr. HARRIS asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, this bill, H.R. 3014, commonly referred to as "cigarette labeling" is brought before the House today by the direction of the Committee on Interstate and Foreign Commerce.

Mr. Chairman, in all candor I feel I should state at the outset that this is one of the most difficult pieces of legislation which we have attempted to bring to your attention. I am quite sure that there are few Members of this body who do not have some degree of familiarity with some of the problems to which this proposed legislation is addressed.

The problems, however, Mr. Chairman, must be seen in their totality in order to appreciate their complexity. Now let me say to the members of the committee that the issues underlying this bill are riddled with controversy. Outstanding scientists from this country and other nations as well as well-known medical specialists, both in the private practice and in Government, have differences of opinion. They have appeared before our committee and in the many days of hearings they demonstrated that there is substantial disagreement. To say that the representatives of the Government agencies who testified and who are quite concerned with the problem and who have grave responsibilities disagree is putting it quite mildly. Then the representatives of the tobacco industry and the representatives of public health organizations who have come to grips with this problem are in substantial disagreement.

So, Mr. Chairman, it is small wonder that there was disagreement among the members of the committee on just what this legislation should contain. However, as the committee came to grips with it, and considered the total effects of the legislation and the complexities of the entire problem, the provisions of this bill were worked out after long and tedious hearings and executive sessions of the committee. It was reported out with more than two-thirds of the committee members voting in the affirmative. One member of the committee who voted against the report wrote minority views. They are set out in the committee report on page 19.

As a matter of fact, the committee report contains substantial information on background and history, and I invite your attention to it. It will provide you with a great deal of factual information in a way that is easily understood. But let me state briefly some of the background of the key provisions for your information.

First, on June 7, 1962, the Surgeon General of the Public Health Service appointed an advisory committee to study all public literature bearing on the relationship of smoking to health. Let me say parenthetically, Mr. Chairman, that I yield to no one when it comes to improving programs aimed at improving the health of the people of this Nation.

I think my record and background during the years I have had the great honor and privilege of serving in this House substantiates this fact. I, together with the other members of the Committee on Interstate and Foreign Commerce, have given a lot of time to this legislation. We have tried to develop programs covering all aspects of public health, including health facilities, research, and treatment to protect the health and welfare of our people.

I do not think any member of this committee could be charged with neglect insofar as the health of the people of this Nation are concerned. The committee had uppermost in its mind to work out a bill that would meet the complex problems with which you and I are faced today.

After the report of the Surgeon General on January 11, 1964, the committee began to study and has studied these problems now for 18 months. This report was adopted by the Department of Health, Education, and Welfare, and its principal finding is outlined in the report. I invite your attention to this report of the Advisory Committee of the Surgeon General. You no doubt had one made available to your office. If not, you can get it by merely making a request. It is a very voluminous report, and very frankly it contains information that is somewhat difficult to fully comprehend. Nevertheless, it is enlightening on many aspects, though in many respects it is confusing. If you try to indulge in the entire report I must say you would come up with perhaps mixed feelings. This has been the case with many of us who have tried to do their best in bringing this legislation to you.

This report contains the finding as follows, and I quote:

Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action.

We have tried to keep that admonition in mind and I believe we have in bringing this bill to you.

Let me give you a little of the background of why this bill is here. On January 18, 1964, the Federal Trade Commission issued notice of a proposed rulemaking proposing the establishment of a trade regulation ruling under which the labeling and advertising of cigarettes would be required to contain a warning of health hazards involved in cigarette smoking. The proposed rule in modified form was issued in June 1964.

Both before and after the notice of the proposed rulemaking, several bills were introduced in the Congress dealing with this subject. On June 23 our committee began hearings which lasted 4 days from June 23 to July 2, 1964. Due to the imminent adjournment of the Congress, it was apparent that time would not permit adequate consideration of the entire problem.

So the committee directed me as chairman to request that the Federal Trade Commission postpone the effective date of the rule which it had adopted with respect to labeling from January 1, 1965, to July 1, 1965. By letter dated August 19 of last year, and as chairman of the committee, I requested the Federal Trade

Commission to postpone the effective date of its ruling so as to permit adequate time for the 89th Congress to consider appropriate labeling legislation and determine what to do about it and thus avoid any unnecessary delay in protecting the public health in this area.

Now, it was pointed out during the hearings that litigation over the Federal Trade Commission action might suspend for a period 4 years or more the effectiveness of the proposed action by the Commission. So, on August 20, 1964, the Commission adopted an amendment to its proposed trade regulation rule postponing the effective date of the labeling requirements specified therein until July 1 of this year, 1965, the same time the rule on advertising would be made effective. There were a number of bills introduced dealing with the problem of cigarette labeling and advertising earlier in this Congress.

They are H.R. 2248 [Mr. UDALL]; H.R. 3014 [Mr. ROGERS of Texas]; H.R. 4007 [Mr. NELSEN]; H.R. 4244 [Mr. FINO]; H.R. 7051 [Mr. ROONEY]; H.R. 7393 [Mr. KING]; H.R. 7560 [Mr. CORMAN]; and H.R. 7713 [Mr. GRABOWSKI].

This shows how many of our colleagues were concerned with the problem.

Then, beginning in April of this year, we held further hearings. The committee conducted 2 days of executive session and following the hearings and after careful and thoughtful consideration reported this bill introduced by our colleague on the committee, the gentleman from Texas [Mr. ROGERS].

The principal purpose of the bill is to provide adequate warning to the public and of the potential hazards of cigarette smoking by requiring the labeling of cigarette packages with the statement—and get this now and compare it with the admonition contained in the report—on every package of cigarettes: "Caution: Cigarette smoking may be hazardous to your health."

As reported, the bill would do four things.

It would make it unlawful for any person to manufacture, import, or package for sale within the United States any cigarettes which do not bear the above-mentioned statement on the package. This would involve a violation, for which the fine could be not more than \$10,000.

Second, the bill would prohibit the requirement of any other caution statement on the labeling of cigarettes under laws administered by any Federal, State, or local authority. I would emphasize that statement, because we must recognize what the fact are and what the problem is.

Third, the bill states that the Federal Trade Commission has no authority to require any caution statement in any advertisement of cigarettes labeled in conformity with the act, but otherwise—I emphasize this—it does not limit or expand the present authority of the Federal Trade Commission with respect to the dissemination of false or misleading advertisements of cigarettes.

I believe we should all recognize this fact, because some Members have made inquiries of me about it. I repeat that

this would not in any way interfere with the authority of the Federal Trade Commission to deal with any misleading or false advertising of any company or any person in the advertising of cigarettes. Section 5 of the Federal Trade Commission Act will continue as it has been for many years.

The CHAIRMAN. The gentleman has consumed 15 minutes.

Mr. HARRIS. Mr. Chairman, I yield myself 5 additional minutes.

Finally, the bill would permit injunctions to be obtained to restrain violations of the act, and would provide an exemption for cigarettes manufactured for export from the United States.

Mr. Chairman, there are many other aspects of this which I could bring to the attention of Members, but I only wish to say briefly that in the course of our hearings we heard representatives of the Public Health Service and of the Federal Trade Commission, and representatives of the industry itself. These are highly capable people who are knowledgeable in their fields. We heard technical people—well known and renowned scientists in this country, who described to us, with charts and by other means and methods, some of the reactions on the human body itself. In many respects they compared cigarettes to many other things.

We heard all of those people, including the former Governor of New Jersey, Mr. Meyner, the distinguished public servant who now heads an organization which is set up by the industry itself, with powers to regulate advertising and to lay down rules and regulations which the industry must follow. This is an effort of self-regulation, which the industry has undertaken at substantial expense.

In recognition of the far-reaching aspects of the problems, their sensitivity, the emotional aspects involved, we have come up with this proposal, which, in my judgment, at this time, and as far as we can see at the moment, probably constitutes a legislative approach in which we can take some degree of pride. Though we are not unscrambling a situation that is very difficult, at the same time we are attempting to do justice by providing an adequate caution statement to anyone who is going to smoke. People are going to keep smoking. There will be people affected by certain diseases such as cancer. People are going to have lung diseases. Those may be—and many of them no doubt will be—caused by too much smoking. However, there are some who are adversely affected by eating too much.

There are those that are affected by drinking too much and by doing other things that we as human beings should not do if we only recognize what the effect is on our life span. We have seen life expectancy in the United States go from some 57 or 58 years to where it is now—above 70 years. We have seen the average life expectancy today rise in spite of all the temptations to which our young people, our adults, and middle-aged people are exposed. We have seen the medical profession and the scientists and those others concerned with these

health programs working together in order to improve the life and the lot of the individual. I think we should feel very proud of it and we should commend those who have given so much of their time and their thought to this problem, instead of looking for the bad things that might happen. Of course, we must recognize there are those things that will tantalize the human body, but at the same time I think it behooves us, you and me, to understand that we are gradually overcoming these difficulties.

Now, what we are doing here today is trying to meet the problems of today and yet say to our young people and in fact to all of our people, if you overindulge, you are going to have some ill results from it.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HARRIS. I yield myself 4 additional minutes.

As for me, I am willing to take into consideration the information given to us by the scientists and the experts and to meet those problems as factually as we possibly can. I believe when you not only have the human body and human life involved but when you have our whole country tied up in a somewhat hard to unscramble situation where the authority runs from the Federal Government to the State government to the county government and sometimes to the city government, with our budgets and economy and our jobs, our employment, our welfare, and our health all combined, then I believe it is my job and your job to try to work this difficulty out as best we can. As for me, I think it is a job for the Congress to do and not an executive agency or a regulatory agency through its own action under a so-called rulemaking procedure whereby they announce what the results will be before they start the rulemaking. I say that because I think you will get better results throughout the Nation and you will get greater compliance and greater understanding with the legislative procedure which we are following. Therefore, this committee brings to you a very difficult problem but one which we have tried to meet forthrightly. We would ask your support on it.

The other body passed a bill, and it is here on the Speaker's desk, I believe. It is different from this bill in some respects, but both bills treat the same basic problem. We think the bill we have is the best one in order to meet the problem. We would like to have the overwhelming support of this House so that we can go to conference with it and so that we will have your backing and support in conference. I think then we will come out with a much better bill then we would if we were to get into a controversy which would make it questionable. I mention this to you to let you know what the factual situation is because I want to do everything I can to see that the majority action of this House prevails insofar as possible when we conclude our consideration on this matter.

Mr. CHELF. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I will be glad to yield to the gentleman from Kentucky.

Mr. CHELF. Mr. Chairman, I want to thank my friend from Arkansas for yielding to me.

I had the privilege of attending a great number of hearings that the gentleman has just described.

I have sat day after day, along with the gentleman, with his kind permission, and heard with my own ears the statements of various scientists, renowned, as the gentleman has said; famous doctors, renowned, as the gentleman has said. The gentleman has been most fair. His committee has been most fair throughout the entire hearings and through the hearings held again this year. Of course if I had my "druthers"—I would "druther" we had no legislation at all—but we can live with this bill—it is reasonable. As one who represents 1 of the 22 tobacco States I want to salute you, Mr. Chairman; I want to commend you; I want to thank you and all of the members of your fine committee for your consideration and for reporting out a fair bill that will be enacted, I hope, by the representatives of the people, rather than by an edict or an order of a commission appointed by the President of the United States. This tobacco industry pays over \$3½ billion a year in taxes. It employs tens of thousands of our people. It spends millions in advertising—transportation, and is a great part of our economy.

Again, I want to thank the gentleman; he has been eminently fair—so has his splendid committee. All of you can be proud of your contribution to truly representative government.

Mr. HARRIS. I thank the gentleman for his comments.

Mr. Chairman, I want to compliment the committee for its careful consideration. The gentleman from Texas [Mr. ROGERS] who is the author of this bill, has given a lot of thought and attention to it. Neither his State nor mine produces any tobacco. This is a national problem. The committee, in my judgment, has done an exceedingly fine job in trying to unravel a most difficult and highly controversial problem.

Let us not get into any emotional feelings about this. Let us recognize that there is a problem here. We have a problem with alcoholism. I intend to schedule some hearings on that subject under a resolution, as soon as the program of the committee will permit. But we have got to tackle these problems that create emotions within us and face them as they come to us, and if we can do as this committee has done, I think it will result in the best interests of the entire population of this great country.

Mr. SPRINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, is smoking dangerous to your health? To tell the truth, I have never met a mature smoker who claimed anything else. My experience may be unusual but I have never met a confirmed, two-pack-a-day smoker who did not envy nonsmokers and yearn to become one. Each one has claimed in loud tones that he would be much better off

if he could successfully do away with the habit.

The Surgeon General's advisory committee on smoking and health concluded that in addition to the well understood reasons for avoiding cigarettes they could, and definitely seemed to contribute to the incidence of lung cancer, possible other respiratory diseases and heart disease. The committee went somewhat farther and recommended that something positive be done about it in the name of public health. Since that report came out there has been the noisiest argument since the League of Nations. No one can blame the tobacco interests for protecting the industry up to a point. Advertising people hate to see a large segment of sponsorship nullified and so they have pointed out the undesirable economic consequences of restricting cigarette ads. Comparisons have been made and with some justification. Liquor can be dangerous of health. Drugs of many kinds are dangerous to health; automobiles are dangerous in some circumstances. True enough; and steps of various kinds have been and are being taken to combat these dangers. But through it all only one spokesman came forth and claimed that the good to be derived from smoking outweighed its dangers. He said it is relaxing.

While all this was going on the Federal Trade Commission had assumed jurisdiction over the matter and issued notice of a proposed rulemaking. The Commission would have required labeling of packages and also a health warning in any advertising copy for cigarettes. Meanwhile, the industry had moved, perhaps belatedly, to organize itself for self-regulation in the field of advertising. A new advertising code is being administered by the former Governor of New Jersey, Robert B. Meyner. The purpose is to change the thrust of the copy which has concentrated on attracting new smokers among the young people. They tell us that the girls are now older in the ads. This may be apparent to teenagers but I cannot in honesty say that I can tell that much difference. But then I have no need to. I am sure that Governor Meyner is doing a conscientious job and that cigarette advertising is changing for the better. But more than this is needed.

One possible result of the furor over the cancer scare was a rash of State and local regulations requiring different and perhaps inconsistent actions by manufacturers, distributors, or retailers of this product. Such a result would not be particularly helpful to the overall cause of public health. It resulted in almost chaos.

Against this background H.R. 3014 was introduced. It takes the obvious step to require a uniform warning message on each package of cigarettes. The message is clear but not overstated. It reads like this: "Caution: Cigarettes Smoking May Be Hazardous to Your Health." By preempting the field this bill would eliminate the possibility of varied copy. It assures that the purchaser would get the same factual warn-

ing whether he buys a package of cigarettes in Chicago or in Los Angeles.

This bill does take positive steps for the protection of public health. But I personally thought the warning should have been stronger. In this I was overruled. This was the best compromise that could be obtained and the one the committee felt was in the public interest and that is why the bill is here today.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Arkansas.

Mr. HARRIS. Since the gentleman has mentioned it, I think the House probably could get a little better understanding of the problem that we had because the question then was not whether we were going or not going to put a caution warning on the cigarette package. There was going to be one. We got into the question of where it should go on the package, whether it should be on the front of the package or the back of the package. On some of these packages you cannot tell whether they are front or back, they are identical. Then there was a question as to the size of the type which it was going to be. These are parts of the problem which we had to consider in an effort to be practical about it, yet provide a caution statement that would be recognized by everyone.

Mr. SPRINGER. May I say, in reply to the gentleman, there is one further factor which was involved on which I think there was essentially nothing we could do about, and that was the danger of the various States getting into the advertising situation. There were at least three States that have already voted one way or the other on this particular thing. Eventually I think there would be legislation at the State level unless we enacted a Federal statute. I think you can imagine all of the chaos that would come about if you had 51 separate State agencies trying to regulate cigarette advertising that goes on in the United States in each individual State. For this reason we felt a Federal statute covering this particular thing would make it much easier to administer by one agency, and if we could get this kind of law enacted with this kind of labeling on it we will not have the States rushing in in crusades to enact statutes on what kind of advertising should be on a package of cigarettes.

Mr. RUMSFELD. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Illinois.

Mr. RUMSFELD. Mr. Chairman, it is on this subject of preempting States and local activities in this area I wish to direct a question. I am distressed by some of the comments in the minority views by the gentleman from California. He said, referring to the preemption, that it weakens rather than strengthens the governmental safeguards in protecting health. He states that the endorsement of this legislation puts the Federal Government in the position of saying that cigarette smoking constitutes a serious health hazard, but that traditional guardians of public health, the State and local authorities, cannot act to protect

their citizens if they believe a warning statement in cigarette advertising would do so.

Your feeling then and the feeling of the committee is that notwithstanding his comment, the danger of a multiplicity of conflicting State or local regulations with respect to advertising tobacco products would create chaos.

Mr. SPRINGER. I think you can very well see if the State of Indiana had one law, the State of Illinois had another, the State of Wisconsin had another, and Michigan had another, what a chaotic condition you would have if you carried cigarettes across the line and sold them in interstate commerce, and which would conflict with each other.

Mr. RUMSFELD. Can the gentleman tell me of any analogies, or other instances where the Federal Government has by law preempted an area to avoid some potential chaos that might develop from a similar problem?

Mr. SPRINGER. I do not recall any, but I believe that has been done on various occasions.

It seemed to the committee members there would be many States where they would not do anything. There would probably be some States where they would do something even stronger than this. But we felt it was a national problem and that we ought to cover all 50 States. We felt that was a better way of doing it than just allowing it to slide to where the FTC would do something about it, and then if the States wanted to they could go ahead and do something about it also. We felt that one administration or one agency could do this better than 50 States trying to meet it and some of them being out of it, especially with cigarettes going throughout interstate commerce and being universally used as they are.

Mr. RUMSFELD. I thank the gentleman for his response and congratulate him for his very fine presentation. I must, however, express my concern about this bill and the possibility that this bill might not only not adequately warn the public of the health hazard involved, but that in addition it may prohibit any State or local action in this area. I am reluctant to see the Federal Government unnecessarily preempt this area.

The CHAIRMAN. The gentleman from Illinois [Mr. SPRINGER] has consumed 13 minutes.

Mr. SPRINGER. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I shall speak in favor of the bill as adopted by the committee.

During the hearings, we heard a great deal of testimony from many eminent members of the medical profession. The most noteworthy aspect of this testimony was the striking divergence of opinion among these doctors.

On the one hand, the Surgeon General of the United States and other doctors have testified that smoking cigarettes is a major factor in the cause of lung cancer and is associated with other diseases.

On the other hand, a number of equally eminent doctors with a wealth

of experience testified strongly that the evidence against cigarettes was not conclusive and was not sufficient to establish that cigarette smoking was the cause of any disease.

The conflicting testimony of these experts has led me to the conclusion that in this area grave doubt exists.

This doubt stems from contradictions which appear in many areas, including those of statistics, animal experiments, and pathology.

As a medical man I was impressed by testimony which, as I understand it, brings into focus a number of unexplained paradoxes.

STATISTICS

In the area of statistics, the distribution of cancer within the oral and respiratory tract appears to contradict the hypothesis that cigarette smoking causes respiratory cancer. As I understand the testimony, those areas exposed to the highest concentrations of cigarette smoke are not the most frequent sites for epidermoid carcinoma, the variety of cancer said by some to be induced by cigarette smoke—Dr. Moran, pages 598–599, House hearings. Cancer of the larynx is much less common than that of the lung; cancer of the trachea or windpipe is extremely rare; and yet both the larynx and the trachea are exposed to a much greater volume of smoke than the lung—statement of Dr. Burford, filed with committee. Furthermore, although less smoke reaches the periphery of the lungs than the central portion known as the major bronchi, more cancer is found in the periphery than in the major bronchi—statement of Dr. Carr, filed with committee.

GEOGRAPHY

The distribution of lung cancer geographically also militates against the theory that cigarette smoking causes respiratory cancer. As I understand it, in Holland, Switzerland, and Great Britain countries having as accurate vital statistics as our own per capita consumption of cigarettes is significantly lower than in the United States; yet the mortality from lung cancer is significantly higher than in the United States—Dr. Ober, page 653, House hearings.

SEX

Witnesses testified that the sex of persons contracting lung cancer adds another apparent contradiction. Cancer of the lung is predominantly a disease of men. This no one disputes, according to the Surgeon General's report—at page 133—the ratio is better than six cases in males to one in females. It is even greater for the larynx—statement of Dr. Clerf, filed with committee. The transcript shows that until a few years ago, those supporting the smoking-causes-cancer theory argued that until very recently, women had not smoked, their theory being that it takes about 20 years of smoking to develop lung cancer. However, numerous women have been smoking for a long enough period to catch up to men if smoking were the cause. And, yet, the statistics still indicate that lung cancer is not a disease of women and that the disparity in its occurrence between men and

women is even greater than it was some 20 years ago—Statement of Dr. Rosenblatt, filed with committee.

AGE

If cigarette smoking caused lung cancer, one would expect that the earlier one started to smoke or the more one smoked, the sooner the disease should appear. Nonetheless, the peak age for the development of lung cancer is 55 to 60 years of age. And the record will show that this peak persists regardless of how much, or for how long, or whether or not the patient smoked—statement of Dr. Mayer, filed with committee.

ANIMAL EXPERIMENTS

Animal experimentation does not seem to have contributed much to our knowledge of the cause of lung cancer. Although cancer of the skin has been caused on the backs of certain inbred, cancer-prone strains of mice after massive doses of cigarette condensate had been painted on shaved portions of their backs—Dr. Ober, page 656, House hearings—these results are of limited value. First, the cigarette condensate was obtained from a smoking machine which cannot duplicate human smoking—statement of Dr. Hockett, filed with committee. Second, the amounts applied to the mice's backs were far greater than a human smoker could possibly be exposed to—statement of Dr. Helwig, filed with committee. Of more importance, the results of experiments in animals cannot be applied to other species of animals, or to man, and cannot even be applied to different organs and sites in the same animal. There is no similarity between the lung of a man and the shaved back of a cancer-prone mouse—Dr. Ober, page 656, House hearings.

INHALATION

Of great significance, several species of animals, including mice, have been exposed to cigarette smoke by inhalation over substantial periods of time and none have developed lung cancer—statement of Dr. Clerf, filed with committee. Yet, exposure to smog, auto exhausts, and viruses have produced lung cancer in experimental animals—Dr. Moran, page 600, House hearings. Other species have had cigarette condensate applied directly to their respiratory tract without developing lung cancer—statement of Dr. Rigdon, filed with committee. These negative experiments create grave doubts in my mind—as they did in the minds of many experts who appeared before the committee—about the smoking-cancer theory, since they more closely approximate the human experience with smoking than the skin painting experiments.

Using the proper test animal and method of application, cancer can be caused by many substances which are regarded as harmless to humans. The committee was told that substances including sugar, egg whites, and salt have been used to induce cancer in experimental animals—statement of Dr. Greene, filed with committee.

PATHOLOGY

Pathology provides further conflicting evidence. Studies have been made of the bronchial lining of the lungs of smokers. Some doctors have stated that

certain changes obtained in the bronchial lining are more common in smokers than nonsmokers and that it is a so-called precancerous change. The term "precancerous change" itself has generated a sharp medical dispute which is apparent in the record of the committee's hearings—see, for example, Dr. Ober, pages 659 to 660, House hearings. Many pathologists believe the term is inaccurate, misleading, and self-contradictory—see, for example, statement of Dr. Barrett, filed with committee. We were told that these changes are reversible and often disappear; that there is no concrete evidence that they inexorably develop into cancer—Dr. Moran, pages 601 to 602, House hearings. In fact, cancer is found in the absence of such changes. Cancer, by definition, is an irreversible change which causes cells to go wild and invade surrounding tissue—statement of Dr. Little, filed with committee. By calling these changes "precancerous," their significance is clouded by semantics rather than illuminated by facts.

These supposedly "precancerous changes" are frequently found in the trachea as well as in the lungs and yet cancer of the trachea is among the rarest cancers of the respiratory tract—Dr. Ober, page 660, House hearings.

Furthermore, they appear in the lungs of nonsmokers, including infants—see Dr. Moran, page 608, House hearings. Some think they are part of the healing process following chronic lung infection or irritation and not evidence of cancer—Dr. Ober, page 663, House hearings.

Some doctors have stated that they can look at a person's lung and tell whether the person is a smoker. Other equally qualified doctors have testified that they cannot tell the difference either grossly or microscopically between the lung of the smoker and the nonsmoker—Dr. Ober, page 659, House hearings.

And pathologically, the cancer of the smoker and that of the nonsmoker is indistinguishable—Dr. Moran, page 611; Dr. Ober, page 664, House hearings.

The most persuasive contradiction of the hypothesis that smoking causes respiratory cancers is the fact that not only do nonsmokers contract and die of these diseases but also well over 95 percent of all smokers do not—Dr. Moran, page 598, House hearings. One test of causation is that a significant percentage of people exposed to the suspected agent develop the disease. Such is not the case with regard to smokers as I see it.

Congress is placed in the difficult position of being asked to decide one of the most complex medical and scientific issues of all times, on which highly competent doctors and scientists cannot agree. The committee could not overlook this sharp disagreement. On the other hand, we could not ignore the position of the Surgeon General and other witnesses who supported his position.

The most that can be said of the present state of medical and scientific evidence is that there exists the possibility that cigarette smoking may be hazardous to health. This is one hypothesis, among others, raised by the evidence we received.

The committee has concluded that because of the seriousness of this problem, the public should be made aware of this possibility. However, the public should not be victimized by a scare campaign and exposed to claims and exaggerations which go far beyond the evidence.

It is impossible to come to any definite or certain conclusion that cigarette smoking causes lung cancer or other diseases. It seems apparent to me that the word "cause" itself is one which has different interpretations in the fields of law and medicine. And, the action of Congress proposed in this bill should not be interpreted to mean that Congress found a cause-and-effect relationship had been proven.

Consequently, the present bill would require a reasonable statement on cigarette packages which is designed to inform the public as follows:

Caution: Cigarette smoking may be hazardous to your health.

The committee concluded that no warning or health statements were necessary in cigarette advertising. The industry appears to have made effective steps toward self-regulation of its advertising. A strict code has been put into effect which is being enforced by an outstanding administrator, Hon. Robert Meyner, former Governor of New Jersey, who has broad powers. And, under the bill before you, the FTC retains its jurisdiction to prevent false and misleading advertising.

The committee thought that on the present state of medical and scientific evidence, the statement on the package adequately informs the public of the possibility of health hazards which may be connected with cigarette smoking. The evidence was not sufficiently strong that this industry should be singled out and drastically penalized by the requirements of a caution notice or warning in advertising.

Mr. HARRIS. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. ROGERS], the author of the bill which we have before the Committee of the Whole.

(Mr. ROGERS of Texas asked and was given permission to revise and extend his remarks.)

Mr. ROGERS of Texas. Mr. Chairman, you have heard a very able presentation of the bill before you by our distinguished chairman, the gentleman from Arkansas [Mr. HARRIS] as to the contents of the bill and the purpose of the bill. You have heard a very able discussion by the distinguished gentleman from Kentucky [Mr. CARTER] who is a doctor, on the scientific problem involved. I think that these discussions should clearly convince anyone as to the duty and the responsibility of the Congress in this particular situation.

I want to address myself very briefly to a matter which I think is of vital importance not only with regard to the question of cigarette smoking but on the basic legal problem involved.

We in this Congress have been accused by the people of the United States, more so recently than before, of abdicating the powers granted to us by the Constitution of this country. I think here we have a

perfect example of how Congress can abdicate its powers by acquiescence. I think that Congress faced a challenge when the Federal Trade Commission moved into this particular area and undertook to take measures that they did not have the authority to take under the laws passed by the Congress.

Those of you who are interested in this subject should take the report of the hearings, read and digest those hearings, because they point out very clearly in many instances exactly what was being done by an agency that was created by this Congress.

I want to go to the very core of the problem. I think it was expressed when the Chairman of the Federal Trade Commission, while he was testifying, during the question-and-answer period, stated that the Federal Trade Commission took some very drastic action. Here is what that drastic action was.

The Federal Trade Commission, if my memory serves me correctly, was created in 1914. From 1914 until 1962 there was a method, a procedure outlined in the law that had been followed by the Federal Trade Commission. That is, when there was a violation the Federal Trade Commission had the authority to move in and stop that violation. But here is the drastic change that took place.

The Commission completely revised the situation and said, "From now on we are going to write the rules by which you must go and we are going to outline those, and any time you violate what we say shall control in the future, you are going to be in violation of the law."

I submit to any person in the Congress of the United States or any person who has ever had any familiarity with the Constitution of this country, if that is not taking away the powers of Congress by a commission created by the Congress, and writing substantive law, then I do not know what it is.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Texas. I yield to the very distinguished gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank my good friend for whom I have a very high regard.

Mr. Chairman, I would like to make very clear that I do not happen to agree with my good friend from Texas. I happen to think that what the Federal Trade Commission did is exactly what they should have done under the circumstances. But for what the Federal Trade Commission has done we might not find this legislation before us today. I think there is an abundance of authority in the law, in the statement of Chairman Paul Rand Dixon on this subject before our committee. He outlined his authority to act and his reasons for doing so. I think he performed a useful public service, and I want to take the opportunity of pointing out to this body that Chairman Paul Rand Dixon not only did a good job in this instance, but he is one of the outstanding public servants in this country today.

Mr. ROGERS of Texas. I would like to say that I appreciate his remarks, but

I point out that he is in disagreement with the best legal scholars, certainly the best constitutional lawyers in this land on this subject matter.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Texas. I yield to the gentleman from Arkansas.

Mr. HARRIS. I think it would be appropriate to state at this time that we were faced with this dilemma.

As I explained in my statement, the Public Health Service established an advisory committee and appointed well-recognized, outstanding men throughout this Nation as members of the advisory committee. The advisory committee of the Surgeon General filed its report with the U.S. Department of Health, Education, and Welfare.

Mr. Chairman, we were faced with a problem that down there in that Department there appeared to be emerging a program that the Hazardous Substance Act should be amended and that the subject matter here should be brought under the jurisdiction of an agency in that Department, the Food and Drug Administration. While that was going on, the Federal Trade Commission which had also been giving some attention to the problem, took cognizance of the filing of the Surgeon General's advisory commission report and came out with its proposed rule.

So, Mr. Chairman, we had various Federal agencies that were interested in different proposals to meet the problem. I believe, as the gentleman from Texas [Mr. ROGERS] has said a moment ago, the better approach to the problem is the one which we have taken here; that is by legislation, instead of by rule or by regulation.

Mr. Chairman, I do not in any sense try to take anything away from the Federal Trade Commission or criticize the Chairman of the Federal Trade Commission for trying to discharge his responsibility. I believe he felt it was his duty to do it. But a majority of the committee, an overwhelming majority, feels as the gentleman from Texas said, that this is the way to do it and I concur wholeheartedly.

Mr. ROGERS of Texas. I thank the gentleman from Arkansas for his contribution.

I would say this, that I am certainly not accusing the Federal Trade Commission of trying to override the rights of anyone. I am not saying that they are not doing what, perhaps, they think is right down there, but I believe the time has come when we are either going to let them run this country or whether the Congress is going to do it. If the time has come for them to run the country we may as well do away with the Congress. You would not need a Congress.

Mr. Chairman, as this matter developed and the Federal Trade Commission undertook to invoke these rules, the thought occurred to me then, and it has become stronger all along, that if Congress had not stepped in and taken the steps that we did take, and the distinguished chairman of our committee had not moved in, we could very well by ac-

quiescence have provided a means by which the Federal Trade Commission could have had the power to write the death penalty for a very strong segment of the economy of this Nation. And, Mr. Chairman, do not let anyone think they could not have done it, because the rules that they were proposing—if you will go back and read them—would have absolutely destroyed the tobacco industry. To support that statement, Mr. Chairman, let me carry this one step further. The Surgeon General of the United States, undertaking to support his report that was gotten out and which caused a furor around this country at the time went so far as to testify before that committee—and the hearings will bear me out on this—that it was not only his responsibility to try to find out what he thought was good for the health of this Nation, but that it was his responsibility to sell that to the American public.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. HARRIS. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. ROGERS of Texas. Now, Mr. Chairman, follow me, because this is a most dangerous situation. I thought I had misunderstood the Surgeon General, and I asked him to repeat it. He stated that it was not only his obligation to try to sell his views to the American people, but that he was supposed to spend tax money to do research to find out how best to make the public accept them.

In other words, if you please, to brainwash the public.

When the time has come in our country that an agency downtown that we have created can take over the reins of this Government and have the power of life and death over a segment of the economy of this country that has contributed much, it is time that the Congress of the United States stop and take stock of what is going on, and do something about it. I think that is exactly what is being done by this legislation.

Mr. CHELF. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Texas. I yield to the gentleman from Kentucky.

Mr. CHELF. I want to congratulate the gentleman for his thorough understanding of this matter and also thank him for what he has done for representative government in the Congress of the United States. I salute you, my friend, as I did your chairman a while ago because, if the day comes—God forbid it—that we delegate our authority to commissions and boards appointed by the President downtown, then God help America. I want to see laws legislated on this floor by duly elected representatives of the people. This is not something that you can look at glibly or take lightly—because this industry pays \$3.5 billion a year to city, county, State and to the Federal Government. If the Congress abdicates its authority in this particular matter—then all Federal boards and commissions will rush in "for the kill" to take over our legislative duties.

Mr. ROGERS of Texas. I thank the gentleman.

Let me conclude by saying that unless this Congress takes affirmative action on this matter promptly, a precedent could be established that would further encroach upon the powers of Congress. Such a precedent would involve not only the Federal Trade Commission but all other administrative agencies. The time has come for Congress to start asserting its powers and stop yielding to bureaus and boards.

Mr. SPRINGER. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota [Mr. NELSEN].

Mr. NELSEN. Mr. Chairman, I wish to speak in support of this bill. I offered a companion bill to the Rogers bill, so my interest would be very much the same. I may say, however, that we have no tobacco in my district, but there is more involved here than tobacco. That has been touched upon by the gentleman from Texas [Mr. ROGERS].

I believe a little review of the history of this legislation needs to be brought to the attention of the House at this point. A reference was made to the voluminous report of HEW dealing with cigarette smoking. Following this report many Members of the Congress prepared bills and brought them before the Committee on Interstate and Foreign Commerce for consideration. We proceeded to have hearings on these bills. We felt it was our responsibility to do something relative to labeling of cigarette packs, if that was the desire of the Congress. So we proceeded to meet our responsibility in this field.

But we were amazed when the Federal Trade Commission indicated it was all set to take over by the use of their ruling authority, which they claimed they possessed in this field, and they indicated enthusiastic willingness to exercise it. Immediately we were confronted, of course, with the possibility that if the Federal Trade Commission proceeded we might have 50 different State laws dealing with this problem.

It was very clear that the thing we ought to do was to meet the problem so that there would be some uniformity in the land as far as any labeling process was concerned. We felt this was our responsibility. There has been argument about the preemption of States' rights. I would like to call attention to the Drug Amendments Act of 1962 where we found some of our legislative provisions would have probably resulted in 50 different State labels. In conference it was ironed out because we felt there should be uniformity in labeling.

If the Congress of the United States is going to say to the tobacco industry, "you must label cigarette packs, it would also seem it would only be fair that there should be uniformity in labeling because otherwise we might have 50 different labels in 50 different States.

Now there has been some argument about whether or not we should proceed in the field of advertising, but it would seem to me the first step would be to consider labeling of the pack thereby giving the industry a chance to meet the challenge of proper regulation of their own advertising policies. I am sure the

tobacco industry realizing the great challenge they are faced with will examine the conduct of the industry in the field of advertising and, I believe, that we in the Congress by passage of this bill will have performed and will have exercised our responsibility as well as meeting the need for uniformity which will result by the passage of this bill.

I urge that the Congress of the United States pass this bill.

(Mr. NELSEN asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I thank the distinguished chairman of the Committee on Interstate and Foreign Commerce for his courtesy and consideration in recognizing me in connection with this piece of legislation.

I have several questions I would like to ask of the chairman of this committee and/or its author dealing particularly with the language going to advertising in section 6, page 4, wherein appears this language:

SEC. 6. Nothing herein contained shall be construed to limit or to expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading advertisement of cigarettes—

I know the chairman of this committee covered the matter well, but I want to establish the legislative history as clearly as possible to make very sure that with regard to misleading or exorbitant or exaggerated claims or even, indeed, as to the subject of claims with regard to the health-giving quality of cigarettes or that perhaps a particular cigarette might be less dangerous than other cigarettes, that the Federal Trade Commission will have full authority to act to protect the public interest to prevent that kind of advertising. Am I correct in my understanding that the Federal Trade Commission still has that authority?

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman.

Mr. HARRIS. The gentleman is correct. I invite the attention of the Members of the House to the committee report, pages 4 and 5, wherein we very thoroughly enunciate just what the situation is. Very briefly what we say is:

Except for the provision that the Federal Trade Commission may not require health warnings in cigarette advertising, the Commission's authority with respect to false and misleading advertising and other unfair or deceptive acts or practices in commerce with respect to cigarettes is not affected by the bill.

That is precisely what I said earlier during the debate. Furthermore:

The committee firmly believes that the Federal Trade Commission should regard as an unfair or deceptive act or practice within the meaning of section 5 of the Federal Trade Commission Act any advertising which affirmatively represents that smoking promotes good health or which affirmatively represents that smoking is not a hazard to health.

I think that is just about as plain as we could possibly put it.

Mr. DINGELL. Mr. Chairman, I will say the gentleman has greatly eased my mind on this particular point.

I would like to raise just one other question while I have the floor and that is to bring out the fact that I understand there is a difference between the House and Senate versions of this bill. The Senate provides that the preemption of the powers and the limitation on the power of the Federal Trade Commission is for a period of 3 years.

I should like to express my hope to the chairman of the committee and the conferees on the part of the House that they consider very carefully the Senate language and the Senate approach to this question. It is my opinion, I wish to say to my good friends on the Commerce Committee, and also to my colleagues in the House, that we may well find, in a period not far hence, additional intelligence and information will come to us with regard to the question of advertising and with regard to the question of health hazards from smoking and cigarettes and the use of tobacco products generally, which may be more grave and may cause more concern.

These products may well, in the not too distant future, be found to be more intimately tied in and more provably tied in with the different ailments cited in the Surgeon General's report.

I hope the conferees on the part of the House will bear this point in mind, because it may well be that in a period of 3 to 5 years the Congress may choose—indeed Congress may feel compelled, by additional scientific evidence in this area—to renew its scrutiny over the whole problem of tobacco, its use, and hazards to health.

I point out to my colleagues that the very fact that we have legislation of this kind before Congress today is pretty clear proof that a problem does exist and there may be need for further scrutiny by the Congress in the future. For this reason I certainly hope the chairman and the members of the committee will look with sympathy on the Senate approach to this legislation.

Mr. SPRINGER. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. DEVINE].

(Mr. DEVINE asked and was given permission to revise and extend his remarks.)

Mr. DEVINE. Mr. Chairman, I am concerned today about the possible precedent which may be established by enactment of this legislation.

I say at the outset, I intend to support the legislation now before the House.

I believe that we in the House today find ourselves in a position of again attempting to save people from themselves. We are saying to them, "We in the Congress of the United States provide public funds for the National Institutes of Health, the Surgeon General, to conduct an investigation to determine what is good. We have his findings, which have been published. Then we have the anomaly that we are also turning around and granting vast sums of public moneys to subsidize the tobacco industry, not-

withstanding the fact that the Surgeon General, in his findings, would lead us to believe that perhaps there may be something seriously wrong, causing health hazards by the use of this product we are subsidizing."

If we in the House fail to act today, there is no question that the Federal Trade Commission, a regulatory commission created by this body, will take some action, and that action might be much more severe than we contemplate. Some people have felt that they might, perhaps, put on the cigarette packages the word "Poison," or even a skull and crossbones, or something of that nature.

This is a question of what is the convenient thing to do and the expedient thing to do on occasions such as this.

The Surgeon General's report, published January 11 of last year, about a year and a half ago, as set forth in the committee report, caused approximately one out of every 5 males in the country to stop smoking. They have said in the report that had that report not been issued, 3½ million more men would be smoking today.

I say that if we are pioneering in this field, if we are initiating in this field a process of telling people what they should and should not do, we again, on a Federal level, are dictating to the people.

It seems to me that perhaps moderation is the key question. Tomorrow or the next day someone could come in to say, with respect to those who sell whisky, "We should put 'Poison' on that label, because if a person fails to use it in moderation, it could result in a serious health hazard."

The same thing could be true with respect to the use of a television set. If a person watches it 24 hours a day, it could be a health hazard, especially to the eyes.

Are we legislating to induce moderation on the part of the people? That is the question we should ask ourselves.

Mr. SPRINGER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. Mr. Chairman, I rise in support of this legislation.

I had the privilege of sitting through practically all of the hearings, and perhaps no one impressed me more than the testimony of Dr. John H. Mayer, of Kansas City, who is a chest surgeon. After treating and operating on some 3,500 cases of lung cancer, he had this to say:

You have undoubtedly heard many opinions as to whether or not cigarette smoking causes lung cancer. I speak as a practicing chest surgeon and believe, based on my experience and study, that the cause or causes have not yet been established.

I certainly agree with the words of our chairman when he said that the committee was confronted with testimony from experts on both sides of the question, but of all the testimony I listened to, Dr. Mayer's testimony was far more convincing.

I do believe while there is a possibility and a probability that cigarette smoking either causes or enhances the cause of

cancer, we cannot at this time conclude, as did the Federal Trade Commission, that cigarette smoking is hazardous and may cause death through cancer or heart disease.

Mr. CORMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. YOUNGER. Yes. I yield to the gentleman from California.

Mr. CORMAN. I thank the gentleman.

Not being a member of this committee, I must say I am not as well versed in the complex problems which face the committee, but I do not recall in the other years I have been here that we have circumscribed our regulatory authorities or the regulatory bodies in the same manner we appear to be doing in this bill. The gentleman indicates he has some doubt in his mind, and there is evidence on both sides of the question, as to the hazards of cigarette smoking. How does it come about in this situation we are preempting the authority of the regulatory body to make further studies and decisions if more conclusive evidence is found?

Mr. YOUNGER. I can answer that because our committee on several occasions has brought legislation to the House stopping regulatory agencies from proceeding on one of their courses. We just had one this year with the FCC. This is not uncommon at all.

Mr. CORMAN. But do you do this when you are confused by the evidence, or do you do it when it seems to be conclusive? As I understood you, there was very persuasive evidence on both sides of this issue so that it would be very difficult for one to reach a conclusion as to the evils of smoking. Yet we are taking away from the regulatory body the ability to notify the American people if they reach a conclusion. Is it when we are in doubt that we take away the authority, or is it when we are convinced?

Mr. YOUNGER. I will say to the gentleman from California that the hearings conducted by our committee were far more thorough than any of the hearings conducted by the Federal Trade Commission. I personally asked doctor after doctor whether they knew a hearing was being conducted by the Federal Trade Commission. They said they did not know, and they could not testify there. I think our hearings are far more conclusive than are those of the Federal Trade Commission.

Mr. CORMAN. Then, if we supported the committee in this instance, it would be on the basis that the committee is telling us the degree of warning is sufficient and there is not any greater harm than this warning would indicate?

Mr. YOUNGER. That is my feeling. Yes. It is also my feeling that this is a problem the Congress should legislate on and not any regulatory body for us.

Mr. CORMAN. It would be helpful if I could know when it is that we decide Congress should regulate anything as specific as this and when we should leave it to the administrative body. That is my problem in this instance.

Mr. YOUNGER. In answer I say, any time you have a legislative committee of this House which has legislative juris-

diction over the regulatory agency and when that committee comes in almost unanimously to legislate and recommend legislation in the field, then we should follow the conclusions of that committee.

Mr. CORMAN. I thank the gentleman.

Mr. HARRIS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BURTON].

Mr. BURTON of California. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 150]

Andrews,	Hall	Nedzi
Glenn	Harvey, Ind.	Nix
Ashley	Hawkins	Philbin
Baring	Hays	Pool
Bonner	Holland	Powell
Bow	Horton	Reid, N.Y.
Bray	Ichord	Rivers, Alaska
Brown, Ohio	Kee	Rivers, S.C.
Colmer	Kluczynski	Roncalio
Conyers	Landrum	Thomas
Cramer	Leggett	Toll
Cunningham	Lindsay	Willis
Dent	McVicker	Wilson,
Evans, Colo.	Morgan	Charles H.
Gubser	Moss	Zablocki

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROOKS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 3014 and finding itself without a quorum, he had directed the roll to be called when 391 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. BURTON] for 3 minutes.

(Mr. BURTON of California asked and was given permission to revise and extend his remarks.)

Mr. BURTON of California. Mr. Chairman and members of the Committee, I think it would be useful to all of us if we considered the minority views as expressed by my distinguished colleague from California Mr. JOHN MOSS, as they appear in the committee report while this matter is before us for consideration. This view states as follows:

Should the Congress pass H.R. 3014, the Federal Cigarette Labeling and Advertising Act as recommended in the majority report of the committee, it would in effect make a "sacred cow" out of the cigarette industry in U.S. commerce by shielding this industry from any future requirements concerning health warnings in tobacco advertisements which might be otherwise imposed by Federal, State, or local authorities.

The Congress has before it a bill which has all the characteristics of a "Jekyll and Hyde." On the surface, this legislation would appear to have the Congress going on record as endorsing the conclusion of the Surgeon General that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." A closer examination of the bill will show that it does little to act as a remedy to curb the cigarette health hazard.

The majority has accepted a basic premise admitting a warning is necessary, yet it stops short of supporting a sound, effective means of thoroughly combating this health problem. The bill requires cigarette packages to carry the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." If this is intended to provide adequate warning to the public of the potential hazards of cigarette smoking, then why not say: "Caution: Cigarette Smoking Is Hazardous to Your Health." The committee in this instance has failed to call an ace an ace and a spade a spade. The Surgeon General's report explicitly says "cigarette smoking is a health hazard."

A more realistic and responsible approach to this problem would be to warn the non-smoking consumer of the health hazard before the product is purchased—rather than remind the individual who already smokes and after he has the product in his possession, that it may be harmful to his health.

I most strongly object to sections 6 and 7 of this bill. Section 6 would prevent the Federal Trade Commission, the Food and Drug Administration, and the U.S. Public Health Service in administering their respective laws from imposing any additional requirement with regard to the labeling of cigarettes involving a health warning. The bill would also prevent these agencies in administering their respective acts from imposing any additional requirement with regard to the labeling of cigarettes involving a health warning. The bill would also preclude State and local health authorities from imposing such requirements.

Section 7, the preemption provision of the bill, provides that no cautionary statement with respect to smoking and health other than specified in this legislation shall be required on any package; and that no such statement with respect to smoking and health shall be required in advertising for cigarettes packaged in conformity with the labeling provisions of this legislation.

The Secretary of Health, Education, and Welfare has said that preventing any regulatory agency from imposing a label warning requirement other than that prescribed in the bill is "a position which we consider too inflexible."

The National Interagency Council on Smoking and Health submitted a petition to the committee asking us "not to approve any legislation which will prevent the Federal Trade Commission from carrying out its reaffirmed intention of requiring health warnings in cigarette advertising—a conclusion the Federal Trade Commission reached after the most intensive study and after holding public hearings." The National Interagency Council on Smoking and Health was organized and is sponsored by the following agencies:

American Association for Health, Physical Education, and Recreation; American Association of School Administrators; American Cancer Society, Inc.; American College Health Association; American Dental Association; American Heart Association; American Pharmaceutical Association; American Public Health Association; American School Health Association; Association of State and Territorial Health Officers; Department of Classroom Teachers of the NEA; National Congress of Parents and Teachers; National Tuberculosis Association; U.S. Children's Bureau; U.S. Office of Education; U.S. Public Health Service.

Such absolute preemption, as is written into this legislation, weakens rather than strengthens governmental safeguards aimed at protecting the public health. The endorsement of this legislation puts the Federal Government in the position of saying that cigarette smoking constitutes a serious health hazard, but that traditional guardians of public health, the State and local

authorities, cannot act to protect their citizens if they believe a warning statement in cigarette advertising would do so.

I cannot conceive of any sound reason why the sale and advertising of cigarettes should be granted Federal protection from States and local regulations which are more stringent than Federal regulations. If the pattern of protection provided for by this legislation for cigarettes were extended to other products, neither State nor local authorities would be in a position to impose in the valid exercise of their policing powers, requirements aimed at protecting the health of the people in their respective States and communities.

The committee has not given adequate study to the real issue in the area of smoking and health—which is reducing cigarette consumption and discouraging young men and women from becoming consumers of this product. This is a subject no one seems to want to talk about because it would point up the need for additional advertising restrictions and point to the fact that cigarettes are hazardous to health. We cannot disregard the effect of advertising on consumption. The Surgeon General's report said: "The overwhelming evidence points to the conclusion that smoking—its beginning, habituation, and occasional discontinuation—is to a large extent psychologically and socially determined." Social and psychological gimmicks of advertising play a major role in selling cigarettes. And I am of the belief that the adoption of this bill providing for preemption would have the ironic result of promoting the sale and advertising of cigarettes under the guise of a requirement that cigarette packages must carry a specified caution legend.

It has been pointed out in the majority report that the Department of Health, Education, and Welfare is conducting informal and educational programs in the field of smoking and health, and the Department's Appropriation Act for 1966, recently passed by the House, includes an item of \$2 million for carrying out these programs. I want to point out to my distinguished colleagues that advertising expenditures in the cigarette industry for 1964 for television, magazines, farm papers, supplements, and radio totaled \$240,765,676. Newspaper cigarette advertising expenditures for the same period are estimated to be \$17.5 million. I will leave any ethical comparisons to your individual judgments.

In summary, I am strongly opposed to those features of this legislation which would preclude the imposition of more stringent labeling requirements or the imposition of health warnings in advertisements which Federal, State, or local health authorities may deem necessary in the future in the proper exercise of their respective powers. We must face the facts as presented to us by the Surgeon General, American Cancer Society, American Medical Association, American Heart Association, and the National Tuberculosis Association. We must first concern ourselves with public health and welfare, not legislate to the whims of a special interest.

Mr. HARRIS. Mr. Chairman, I yield such time as he may require to the gentleman from North Carolina [Mr. KORNÉGAY].

(Mr. KORNÉGAY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. KORNÉGAY. Mr. Chairman, tobacco has been a dynamic force in our Nation's economy for more than 350 years. Historically, tobacco was America's first industry and the taproot of commerce which helped early settlers gain a foothold in this country by saving

the Jamestown colony when it was on the brink of economic collapse. Later, tobacco helped attract settlers to the New World and created a basis for new enterprises.

Today, tobacco is one of this Nation's major industries. Its impact on the economy can be measured by the following:

Around 70 million Americans, more than half the adult population, spend more than \$8 billion for tobacco products annually—more than \$7 billion for cigarettes.

Tobacco is grown in 21 States by some 750,000 farm families and is the country's fifth largest cash crop following cotton, wheat, corn, and soybeans.

Tobacco products are manufactured in around 500 factories operating in 30 States, giving direct employment to more than 96,000 people.

Tobacco products are distributed by some 4,500 wholesalers to more than 1.5 million retail businesses selling tobacco products.

Tobacco company stockholders of record total over 310,000.

More than 1.5 million businesses share in the tobacco trade supplying equipment, materials, transportation, and distributing and merchandising services.

An analysis by an independent economic research organization showed that the tobacco industry in 1 year generated \$65 million in sales for auto industry products; \$59 million for petroleum products; \$49 million for electric power; \$173 million for chemicals, cellophane, and filter materials; \$260 million for paper and paperboard; \$131 million for rail and truck transportation; and \$68 million for products of iron and steel mills and foundries.

In addition, tobacco taxes provide a major support for Government services, on all levels.

The Federal Government collects more than \$2 billion annually in tobacco excise taxes, State governments about \$1.2 billion and municipal governments more than \$50 million. Ninety-nine percent of the total tax comes from the sale of cigarettes.

About half of what the consumer spends for a package of cigarettes is paid to Government treasuries. The Federal cigarette tax alone totals more than 15 percent of all U.S. excise tax collections.

Mr. Chairman, I now address myself to section 6 of H.R. 3014 as that bill has been favorably recommended by the committee.

We have here the curious situation of a race between the Congress and an administrative agency, the Federal Trade Commission, which Congress itself has created. What is most extraordinary is that the problems and questions on smoking and health, which a committee of this House has carefully considered over a period of more than a year, were precipitately determined last June by the Federal Trade Commission. Indeed, the Commission has by its own unauthorized action attempted to take over the responsibilities of Congress.

Had this occurred on some minor detail of agency regulation, or on some small question of governmental action,

there might be some room for congressional indulgence, even though I believe that any invasion of any individual freedom in itself presents a vital question for congressional concern.

But we are here dealing with questions of major national importance. As the chairman of the House Committee on Interstate and Foreign Commerce pointed out at the hearings, tobacco is manufactured in 21 States. There are altogether about 100,000 people employed in 30 States in the manufacture of tobacco products. Over 1½ million businessmen, many operating small enterprises, share in the tobacco trade.

In 1963 there were over 70 million Americans who bought tobacco products at a cost of \$8 billion. These sales provided over \$2 billion to the Federal Government in taxes, and over \$1 billion to State governments and municipalities.

If there ever was a problem that was for Congress to resolve, the issues that have been raised about smoking and health would clearly be included. Indeed, for several years there have been bills pending in both the Senate and the House which had been referred to the responsible committees for study.

Nevertheless, within 1 week after the issuance of the report of the Surgeon General's Advisory Committee on Smoking and Health on January 11, 1964, a single administrative agency, the Federal Trade Commission attempted to take over the entire problem.

It did so by plainly exceeding its statutory authority. It did so without consulting with any committee of the Congress. It did so by a procedure which violated the due process safeguards which the Congress had provided against the abuse of authority by an administrative agency.

Even more, the Federal Trade Commission is presently insisting to Congress that unless section 6 of H.R. 3014 is promptly enacted, it will go forward in its attempt.

The story is fully set forth in the committee hearings. In broad outline, there was appointed in early 1962 an Advisory Committee to the Surgeon General. That committee was asked to make a technical report. This was to be the first phase of the broad inquiry into smoking and health.

The second phase was to be a determination by all interested parties—Public Health Service, Federal Trade Commission, the Department of Agriculture, the Department of Treasury, the tobacco growers and manufacturers, and one might suppose the various States who had a vital stake in these questions—as to what governmental action might be appropriate.

There were few who did not understand that Congress would ultimately decide any questions that were of such wide national importance and concern.

But within a week after the report issued, the Federal Trade Commission announced that it would on its own deal both with the labeling of cigarettes and with mandatory requirements in the advertising of cigarettes. It also announced that it would do so by promulgating what it called trade regulation rules.

In effect, those rules are sweeping statutory provisions applicable across the board to the entire tobacco industry. Legal authorities, except Commission attorneys, are in agreement that the Commission was never given the statutory power to take over the functions of Congress in that fashion.

What was likewise most unusual in the Commission's effort to legislate, was the way in which it went about promulgating the so-called trade regulation rules. Congress has specified that the Commission was to act only on complaints, only on sworn testimony presented to it, and only upon findings of fact made on that testimony. In short, the Commission was established as an enforcement and not as a legislative body.

All of that had been reaffirmed by the Congress in the Administrative Procedure Act of 1946 which carefully insured that whenever an administrative agency, to which Congress had delegated enforcement power, and not legislative power, acted against any citizen, it would follow these fundamental rules of due process.

The record of the committee hearings further reveals that despite the fact that the House Committee on Interstate and Foreign Commerce began its hearings on 10 or more bills on this subject on June 23, 1963, the Commission went right ahead and the very next day released its final trade regulation rules, to be effective on January 1, 1965, as to labeling and on July 1, 1965, as to advertising.

It hardly needs elaboration that in a national election year, it was manifest that the Congress, which had many different bills before it both in the House and in the Senate, could not have concluded its deliberations by the end of the second session of the last Congress. It was only at the request of the chairman of the House committee, that the Commission postponed its labeling requirements until July 1 next.

What is truly amazing is that before both the Senate committee and the Federal Trade Commission this spring threw down the gauntlet and made it clear that unless Congress intervened, the Commission would proceed with its rules even though it recognized that there was serious legal controversy about its authority.

I am satisfied from a study of the history of the statutes and the other legal materials that the Commission does not have the statutory authority virtually to legislate by issuing broad trade regulation rules. That conclusion has been reached by independent legal scholars who have studied this precise question and written about it.

On that legal point whether the Commission was ever given the authority to function as though it were the Congress—instead of enforcing by administrative procedures, the law enacted by Congress—everyone seems to be out of step except the Commission.

Moreover, I doubt that anybody could be found who would agree that the Commission's further attempt to evade the procedural safeguards laid down by Congress was legally proper. The Commission ended up saying that even though

it had never held a proper hearing, no one could in the future question its determinations because they had been arrived at by official notice. A moment's thought will suggest that if an administrative agency can make new laws on that idea of official notice, Congress has virtually abdicated.

It is for these reasons that section 6 of H.R. 3014 is essential. That section makes clear that Congress, after full consideration, has determined that in the present unsettled state of medical knowledge it suffices that every package of cigarettes contain the specific caution statement, "Cigarette Smoking May Be Hazardous to Your Health," in the precise place and in the prescribed type size set forth in section 5 of the bill. The asserted authority of the Federal Trade Commission to require a mandatory caution statement in every advertisement is specifically foreclosed.

At the same time, however, the authority of the Commission to proceed in regular fashion against any false or misleading advertisements of cigarettes is continued. Only as to caution statements with respect to smoking and health is there congressional preemption.

Moreover, because we have had the further unique situation of two agencies, the Federal Trade Commission and the Department of Health, Education, and Welfare, each suggesting that it be authorized to deal with these problems, section 6 further provides that the congressional determination of these questions shall control all Federal agencies.

As a corollary, to avoid the obvious chaos that would otherwise result, section 7 preempts the field with respect to smoking and health as to individual or additional action by any State or local authority.

In my view, what the committee has proposed in H.R. 3014, after comprehensive hearings on the medical, economic, and every other facet of this problem, is a sound solution.

It is probably inappropriate for a bill, dealing with this area of smoking and health, to go further and to cover more broadly the area of abuse of statutory authority by administrative agencies, or their plain failure to conform to the due process procedures which the Congress has carefully prescribed for the protection of our citizens.

I am hopeful, however, that in the future, Congress will not be confronted with any further efforts of this sort to seize upon issues of wide national importance as the vehicle for an unlawful grasp for bureaucratic authority, beyond what Congress has conferred, and on national questions which Congress has pending before it and alone should decide.

Mr. HARRIS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman from California [Mr. BURTON] has just recalled to your attention the minority views. In view of the fact that our colleague from California [Mr. MOSS] is not here at this moment I think it would be appropriate to advise the Members who did not hear the debate earlier that I referred to the minority views in my own remarks at the outset as did one or two

other members of the committee who engaged in the debate. So we have tried to give the House the full and complete story of this problem.

In calling attention of the House to the minority views and reading some part of them, as did our colleague the gentleman from California [Mr. BURTON], we have here a further indication of the differences of opinion that prevail over this highly important matter which affects the people of this country in many ways.

Mr. Chairman, I have no further requests for time.

Mr. BROYHILL of North Carolina. Mr. Chairman, the report of the Surgeon General's Advisory Committee on Smoking and Health has stirred up a whirlwind of comment and controversy since its release to the public on January 11, 1964. I would like to point out, however, that at the time this report was released, there were at least four bills dealing with this subject before the 88th Congress.

One mentioned warning labels, two dealt with disclosure of nicotine and tar content of cigarettes and the remaining bill saw the problem as one for the Food and Drug Administration. After January 11, 1964, there were seven bills dealing with the question of cigarette smoking introduced in the 88th Congress. Some of these would have placed jurisdiction in the Federal Trade Commission. At least one provided for a policy not to encourage cigarette smoking but to hasten research in this area. Two weeks after the report hit the street the Federal Trade Commission commenced a rulemaking procedure which proposed labels for cigarette packages and a requirement that all advertising of cigarettes carry a warning message as to possible health consequences of smoking the product. The Federal Trade Commission claimed the jurisdiction under its general authority to prevent deceptive practices and unfair methods of competition. In the latter days of June 1964, the Committee on Interstate and Foreign Commerce held hearings on the 11 bills which had been referred to it. By this time the battle lines were well drawn and skirmishes had already been fought in the hearing rooms of the Federal Trade Commission.

While the hearings did not produce any new or startling facts in the controversy, they did show that there were some very important questions which could not be answered by the report or by proposed solutions. Many of these problems were not health problems but were economic problems of considerable consequence. I would probably be one of the first to claim that the continued prosperity of a particular industry cannot overshadow or control our actions in the protection of the health of the American public, but I would also say that before we conclude that the health problem overpowers these other questions we should look carefully at the evidence and be sure that the actions taken are not the kind of overcompensating panic actions resulting from an emotional rather than a rational approach to the problem.

I think it is clear that Congress was recognizing its responsibility during

these months of 1964 and was proceeding with a kind of deliberate speed, most conducive to a right answer. At the same time, however, the Federal Trade Commission was charging forward, waving the report as thought it were a banner. It became all too apparent to our committee that any final action we might take at that juncture could prove to be ill advised and for that reason the committee recommended that the Commission be prevailed upon to withhold final action on its proposed rule. I was somewhat surprised but well pleased with the agreement to follow this sensible suggestion.

Now the committee has had time to hear all of the old arguments plus any new material which has been developed. A great deal of the hearing record will sound like a replay from the year before.

H.R. 3014, introduced by the gentleman from Texas, WALTER ROGERS, appealed to me as a sensible approach to the problem after time to think our way through the events of the year before. It calls for a moderate and factual statement on a package of cigarettes: "Caution: Cigarette smoking may be hazardous to your health." It preempts the field to avoid a tug of war between competing agencies, and State and local governments.

A fair reading of the testimony must lead one to the conclusion that there is not at the present time undeniable evidence to show that smoking will inevitably lead to health problems. However, whatever the outcome of this legislation, it is a fact that cigarettes are going to be labeled. I say that Congress should be the one that determines the extent of this regulation. I am personally convinced upon the record taken as a whole, that H.R. 3014 is a proper approach and I feel that this House should pass this bill.

Mr. COOLEY. Mr. Chairman, tobacco is the oldest industry in our Nation. It is an honorable industry. Tobacco was the economic base for the first successful English colonization of the New World. Jamestown was the world's first tobacco export market.

During the first 100 years of our history as a Nation, it was the export of tobacco and cotton that maintained America's financial integrity before the world. Tobacco now is an \$8 billion a year business in the United States.

Since 1933, when the tobacco program and other farm programs first were inaugurated, Federal, State, and local governments have collected \$52 billion in excise taxes upon tobacco and tobacco products—the Federal Government \$39.5 billion, and State and local governments \$12.5 billion.

The \$39.5 billion in Federal tobacco collections alone during this 32-year period are substantially more than twice the grand total of \$15 billion expended by the Government through the Commodity Credit Corporation on all farm price-support programs for all crops since these programs were inaugurated. Moreover, while \$52 billion has been collected in excises by Federal, State, and local governments, the cost of the tobacco program, which has protected the

income of tobacco farmers through all these years, has amounted to only \$38 million.

Meanwhile, during these 32 years, our tobacco and tobacco products exports—without export subsidy—have amounted to \$10 billion, contributing substantially to our Nation's balance of payments with other countries.

Hundreds of thousands of farm families in 21 States are engaged in the production of tobacco. There are some 550 plants, employing approximately 100,000 workers in 30 States, engaged in the manufacture of tobacco products. Approximately 1,500,000 businesses with many hundreds of thousands of workers are in the tobacco trade.

But now in this House today the tobacco industry has been assailed, and I regret that some there may be who are approaching the legislation now before us with a punitive purpose in their minds.

Mr. Chairman, the Surgeon General of the Public Health Service issued early last year the report "Smoking and Health."

Some people immediately proposed that a skull and bones or some tag or label be placed or printed on each pack of cigarettes, to warn against smoking. Some other people have gone so far as to suggest that the Government scuttle the tobacco program under which the farm families who produce tobacco have been able to earn a decent income.

Of course the health of our people is paramount. The "Smoking and Health" report has presented the tobacco industry with a challenge. The response must be calm, responsible, and deliberate. This is no time for ill-conceived, hasty, emotional legislative reaction, or for punitive action.

Many millions of people will continue to smoke, irrespective of any repressive action. People will make individual decisions. They abhor and will resent Government coercion. Therefore, the real challenge is to give to the people maximum assurances of health while they enjoy smoking.

The tobacco industry has accepted the challenge of "Smoking and Health." The industry has in being programs to accommodate smoking with assurances of health.

I have introduced a resolution in the Congress calling for a crash, Government-backed research program to determine what, if anything, in tobacco and in other ingredients and materials that go into the manufacture of cigarettes might be related to health. Nobody has yet identified positively anything in tobacco that might cause severe injury to health.

We need to clear up many things. Research will do it. We shall see to it that those who enjoy smoking may do so with perfect confidence.

Mr. Chairman, our tobacco farmers and the tobacco industry are determined to cooperate in every way in this objective. These farmers, this industry, and Members of this body from tobacco producing States are supporting this legislation now before the House. I do not think the labeling of cigarettes as here pro-

posed is necessary, but we are showing our good faith.

We feel that if legislation of this nature is to be enacted, we shall take the bill now under consideration. Further than this we are unwilling to go. I think it is better for the Federal Government to act with restraint in this area than for several of the States to legislate on labeling of cigarettes, for this would cause confusion, chaos, and great costs in the tobacco industry.

Moreover, those of us who represent the millions of people who grow, process, manufacture and merchandise tobacco want to cooperate in every way possible to assure our customers—the people of these United States and the world at large—that we are interested in their health and their well-being at all times, and we shall not rest until any person can enjoy tobacco with all the assurances with which he partakes of his daily bread.

Mr. VIVIAN. Mr. Chairman, I intend to cast my vote against H.R. 3014, the cigarette labeling bill currently before the House.

The plain fact is that this bill is not strong enough. Despite a multitude of studies showing a clear causal relationship between smoking and lung cancer, this bill requires only that cigarette labels have printed on them the innocuous phrase:

Caution: cigarette smoking may be hazardous to your health.

There should be no hesitation about unequivocally warning the American public of a grave hazard to its health. In a report last year, the Surgeon General, Dr. Luther Terry, said:

Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking (on lung cancer) far outweighs all other factors. The data for women, though less extensive, points in the same direction.

Last year, the Federal Trade Commission promulgated far more stringent regulations based on their own appraisal of the hazards of smoking to the health of the American people.

The FTC ruled that cigarette companies must in both labeling and advertising carry words to the effect that "cigarette smoking is dangerous to health and may cause death from cancer and other diseases." This regulation originally was ordered to be in effect by January 1 of this year, but the order was then postponed, so that it would not take effect before this date. H.R. 3014, the bill before us today, will completely block this regulation.

This bill, as the gentleman from California points out in his minority report, will, if passed, have the ironic effect not of deterring, but rather of tolerating, increased promotion of the sale of cigarettes, under the distracting guise of a requirement that cigarette packages must carry a specified caution legend.

The well-known and authoritative newsletter reporting on Capitol Hill matters, Congressional Quarterly, has called the bill, and I quote, "a victory for the cigarette industry." No wonder.

Mr. Chairman, I object to the proposition implicit in this bill; that health is less important to the American people

than maintaining employment and profits in the tobacco industry, and protecting cigarette tax receipts. I support the FTC regulations. I want them put into effect immediately. Therefore, I shall vote against H.R. 3014.

Mr. OTTINGER. Mr. Chairman, the gentleman from California [Mr. ROOSEVELT] has offered a most worthwhile amendment to the Federal Cigarette Labeling and Advertising Act before us today. This amendment would give us a sound, effective means of combating a serious health hazard.

This bill is based on the premise that cigarette smoking is a health hazard that warrants remedial action. Yet, section 7 of the bill would shield the cigarette industry from any future requirements concerning health warnings in tobacco advertisements which might otherwise be imposed by Federal, State, or local authorities.

Section 7 should be stricken from the bill. It provides an absolute preemption that is sure to weaken governmental safeguards designed to protect the health of the American public. It puts us in the position of saying that cigarette smoking is a serious health hazard, but State and local governments cannot protect their citizens by requiring a warning statement on cigarette packages.

Mr. Chairman, section 7 not only seriously weakens this legislation, but represents an unwarranted infringement on the rights of State and local authorities.

If this sort of provision were extended to other products, State and local governments would be powerless to enact requirements more stringent than those adopted by the Federal Government. Their power to protect the health of their citizens would be unjustifiably curtailed.

I strongly support the amendment of the gentleman from California [Mr. ROOSEVELT] and urge my colleagues to do likewise.

Mr. CLEVELAND. Mr. Chairman, I rise in support of H.R. 3014, which would require cigarette manufacturers to caution smokers of the hazards they risk in using cigarettes. This would be done by means of a label on each package reading "Caution: Cigarette smoking may be hazardous to youth health."

This legislation is very ironic, however, in view of the fact that another arm of the Government, the Agriculture Department, as duly authorized by this Congress, is continuing to spend hundreds of millions to subsidize tobacco, in a program against which I voted last March 23. Although it has been said that a foolish consistency is the hobgoblin of little minds, I do feel in this respect and on this subject, it is inconsistency that is foolish.

Mr. DERWINSKI. Mr. Chairman, I am opposed to this bill. It is the greatest case of fence straddling I have seen since commencing my service in the House of Representatives.

If cigarette smoking is a danger to health, more stringent steps are needed. If it is not, this warning is unnecessary, and our legislative action completely inconsequential.

As I see it, we have solved nothing by this legislation except to make an empty gesture toward concern for the health problems caused by cigarette smoking.

The CHAIRMAN. There being no further requests for time, the Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Cigarette Labeling and Advertising Act".

FINDINGS

SEC. 2. The Congress hereby makes the following findings:

(a) A Federal program dealing with cigarette labeling and advertising is desirable to provide national uniformity in labeling and advertising requirements for the cigarette industry.

(b) The production, processing and distribution of cigarettes, the employment directly and indirectly resulting therefrom, and the revenues derived from taxes imposed thereon, affect commerce and the national economy.

DECLARATION OF POLICY

Sec. 3. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(a) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes.

(b) Commerce and the national economy may be (i) protected to the maximum extent consistent with this declared policy and (ii) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

DEFINITIONS

Sec. 4. As used in this Act—

(a) "Cigarette" means any roll of tobacco or other substance wrapped in paper or in any substance other than tobacco, and intended for smoking.

(b) "Commerce" means commerce among the several States or with foreign nations, or in any territory of the United States or in the District of Columbia, or between any such territory and another, or between any such territory and any State or foreign nation, or between the District of Columbia and any State or territory or foreign nation.

(c) "Territory" means the insular possessions of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

(d) "Package" means a pack or box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(e) "Person" means an individual, partnership, corporation, or any other business or legal entity.

(f) "United States" means the States, the District of Columbia, and the territories and possessions of the United States.

(g) "Sale or distribution" includes sampling or any other distribution not for sale.

LABELING

Sec. 5. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." The foregoing statement shall appear in print contrasting to the background on either of the two side panels of the pack, or in the case of a cylindrical pack on the side thereof, in not less than ten-point type

on a twelve-point body. In the case of boxes, cartons, or containers of any kind, other than the individual pack, containing cigarettes, the statement shall be printed in print contrasting to the background on a side in not less than twelve-point type on a fourteen-point base.

ADVERTISING

SEC. 6. Nothing herein contained shall be construed to limit or to expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading advertisement of cigarettes, provided that the Commission shall not have authority in any proceeding under any statute administered by the Commission to require the inclusion in any advertisement of any statement concerning any hazard to health involved in smoking cigarettes where the advertised cigarettes have been packaged in conformity with the labeling provisions of this Act. No Federal agency shall require any additional caution statement on any package labeled in conformity with this Act.

PREEMPTION

SEC. 7. No caution statement with respect to smoking and health other than specified herein shall be required on any package. No caution statement with respect to smoking and health shall be required in advertising for cigarettes packaged in conformity with the labeling provisions of this Act.

CRIMINAL PENALTY

SEC. 8. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

INJUNCTION PROCEEDINGS

SEC. 9. The several district courts of the United States are invested with jurisdiction, for cause shown, and subject to the provisions of section 381 (relating to notice to the opposite party) of title 28, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 10. Cigarettes manufactured, imported or packaged (a) for export from the United States or (b) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act: *Provided*, That such exemptions shall not extend to cigarettes manufactured, imported or packaged for shipment to United States military vessels or shore-based activities wherever such vessels or activities may be located.

SEPARABILITY

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one hundred and twenty days after the date of its enactment.

Mr. HARRIS (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that further reading of the bill be dispensed with, that it be included in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 4, line 9, immediately after "appear" insert "in print contrasting to the background".

Page 4, line 15, immediately after "printed" insert "in print contrasting to the background".

Page 5, beginning in line 2, strike out "concerning any hazard to health involved in smoking cigarettes" and insert in lieu thereof "with respect to smoking and health".

Page 5, line 6, immediately after "statement" insert "with respect to smoking and health".

Page 5, beginning in line 22, strike out "and subject to the provisions of section 381 (relating to the opposite party) of title 28,".

Page 6, line 22, strike out "twenty" and insert in lieu thereof "eighty".

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. VAN DEERLIN

Mr. VAN DEERLIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VAN DEERLIN: On page 4, line 10, strike out "either of the two side panels" and insert in lieu thereof "one of the two largest panels."

Mr. VAN DEERLIN. Mr. Chairman, this proposed amendment refers to the form of labeling that we shall adopt as a warning, especially to young people who may be tempted to smoke for the first time and whom we seek to warn with this legislation. I am cognizant of the fact that the author of the bill, the gentleman from Texas [Mr. ROGERS] has generously provided for 10-point type on a 12-point slug. The committee amendment has made it clear that the colors shall be contrasting so that the type shall be clearly visible. I am somewhat disturbed, however, by the fact that the only warning will appear on a thin side panel of the normal cigarette pack.

Mr. Chairman, when I proposed to rectify this situation in committee, I was not clear in the language that I offered. I offered an amendment in committee which proposed carrying the label on the front panel or back panel. This quickly led to some confusion over what is the front side of a pack of cigarettes which makes it seem on both front and back.

Mr. Chairman, the language I have offered today says that it shall be one of the largest panels on the pack.

Mr. Chairman, it is our responsibility, I believe, to require the manufacturers of cigarettes to label them so as to make people aware of the dangers to health, which dangers have been determined by a Government agency to be inherent in their use.

Mr. Chairman, if having read and understood the warning, people still wish to buy and smoke cigarettes, or any other tobacco product, it is most certainly their right to do so.

Mr. Chairman, the crux of the matter lies in the phrase, "having read and understood the warning."

It is our responsibility to make sure that they do read and understand it.

This means that the warning must be placed on the pack and be in large enough print so that the casual purchaser will almost certainly read it and have every opportunity of understanding it.

Mr. Chairman, this requirement cannot be met nor our responsibility ful-

filled merely by allowing such a warning to be placed in fine print on one thin panel of the cigarette package. The requirement can be met and our responsibility discharged only by requiring that the warning message be printed in letters of clearly legible size on the front or the back. I mean by that the largest panel on every package of cigarettes. Only then, Mr. Chairman, as I said, can we feel that we have done all within our power to insure that the users of cigarettes, man or woman, teenage boy or girl, has read and understood the warning, and has been made aware of the possible danger to his health.

Then, Mr. Chairman, I think we shall be satisfied that we have done more than the irreducible minimum to drive home to the young people of America the warning that was contained in the report of the Commission on Smoking and Health.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think the purpose of this amendment is very clear to the Members of the House. In the committee a similar amendment was offered by our friend from California. Its purpose was simply to make sure, if we are going to engage in the practice of advising people that these devices constitute a hazard to health, it should be made abundantly clear in the warning.

Mr. Chairman, the purpose of this amendment is to accomplish this purpose, to see to it that when one buys a package of cigarettes that he has a clear warning of the hazard to his health displayed prominently on the face of the package, or on a large side clearly visible to them, so that he may know that these devices constitute a hazard to him and to his health and welfare.

Mr. Chairman, I suggest very strongly that my colleagues on the Committee consider this amendment favorably and that the Committee do adopt this amendment. In my opinion it is clearly in the public interest.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I said in the debate this afternoon, the committee considered this problem and we understood there were a lot of complications that were involved in regard thereto. We did meet it, however, in the language of the bill, section 5, page 4, if the members of the committee will get a copy of the bill. I invite your attention to it.

I hold here, Mr. Chairman, a package of cigarettes that I borrowed from one of our colleagues. You can see here what kind of problem we would run into. We

had the same example before the committee, because there is nothing sacrosanct about this particular type of package.

It could be made in a different size and character altogether. We considered that proposal, and what we did was to say that the statement that would be required must be in print in contrast to the background. In other words, it would be very plain and visible to anyone who would purchase and utilize a package of cigarettes.

I think the amendment offered by the gentleman from California is completely impractical, and I therefore request that it be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The amendment was rejected.

Mr. O'BRIEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'BRIEN: On page 3, strike out lines 6 through 14 and insert in lieu thereof the following:

"(b) 'Commerce' means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnson Island and any place outside thereof; (2) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnson Island, but through any place outside thereof; or (3) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, or Johnson Island.

"(c) 'United States', when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnson Island."

On page 3, strike out lines 20 through 22.

Mr. O'BRIEN. Mr. Chairman, my amendment does not go to the merits of this legislation, but provides a more precise geographic definition and avoids placing in this legislation the Commonwealth of Puerto Rico under the definition of "territory."

Mr. HARRIS. Mr. Chairman, we have had occasion to analyze the amendment offered by the gentleman from New York. This was discussed in committee, but it was after we had passed over that section. It was generally agreed at the time that the matter could more appropriately be adjusted when we came to the floor of the House.

Therefore, I am in position to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was agreed to.

Mr. ROOSEVELT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendments offered by Mr. ROOSEVELT: Strike out section 7.

Mr. ROOSEVELT. Mr. Chairman, first may I apologize to the committee because I was not present during general debate, as the chairman of the distinguished Committee on Interstate and

Foreign Commerce gave me permission to hold subcommittee hearings during general debate.

However, section 7, which I ask be stricken, is the preemption section. It would prohibit any State from taking any action which the State legislature or the authorities of that State find necessary in view of certain actions which are now prohibited, particularly under section 6, because under section 6 the authority of the Federal Trade Commission to regulate the advertising of this industry is practically stricken. I draw this to the attention of the Committee very humbly. If you will go through the record and look at the advertising of this industry and the claims that are made for cigarette smoking and all kinds of cigarettes, one kind over another, it seems to me that the basic question is whether the simple words of caution "Cigarette smoking may be hazardous to your health," may have any result, because of the tremendous advertising campaign which may well be put on and which therefore will actually mean those words are overlooked or minimized in a manner in essence will fool the public.

It seems to me, therefore, only right that any State would seize its duty to protect its citizens in at least being able to do such a thing as to regulate the advertising and should have the right to do so. But the way section 7 reads, unless I misread it, Mr. Chairman, it would prohibit any State not only from changing the caution words but it would prohibit any means of regulating the kind of advertising which might be published to overcome the implication of the words on the package as included in this bill.

Therefore, Mr. Chairman, while I might seem somewhat incongruous as a defender of States rights, may I say this is indeed a matter of States rights.

Mr. JOELSON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am going to support this legislation because I do not think it can do any harm. But I think we delude ourselves if we think it is going to significantly stop the American public from puffing away contentedly. I think it is going to have as much effect as to put a label on heroin warning that heroin may be habit forming. I predict after this bill is passed many Members of this House are going to retire to the cloakroom and have a good cigarette smoke. I think if we really want to do something, we have to leave some latitude so that the advertising claims can be carefully scrutinized.

[Mr. O'HARA of Illinois addressed the Committee. His remarks will appear hereafter in the Appendix.]

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment.

This is one of the difficult problems the committee had to consider.

I am not an habitual smoker and I

never have been. I have never criticized anyone for smoking. We do have the problem.

As I said earlier in the debate, this affects not only people and their desires and their habits, but also the Federal Government, the State governments, and, in many instances, the city governments.

It would be impossible for a cigarette manufacturer to manufacture cigarettes and label them differently for each city or each State. So we approached the problem on a practical basis. Consequently, we decided that this is an interstate problem.

Believe me when I say we do have interstate problems. We have responsibilities in respect to these interstate problems. We approached this as we did with the broadcasting industry. The Congress many years ago decided that this was an interstate problem. If we want to be practical about this problem, we must consider it to be an interstate problem.

If such an amendment as that proposed were adopted, it would, of course, subject the industry to a different type of labeling or advertising requirement, in various States and various cities.

Mr. ROOSEVELT. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am glad to yield to the gentleman from California.

Mr. ROOSEVELT. I thank the good Chairman.

May I ask whether there is a preemption in the drug protection laws against all State action in respect to drug advertising and labeling?

Mr. HARRIS. Not at all. Most of our Federal labeling laws having to do with food and drugs have an application where "not in conflict herewith." We have built our Federal laws in the Food and Drug Act around existing laws in many of the States.

In the bill we had under consideration in the last Congress, and one earlier in this Congress, I believe, we recognized that problem and built the legislation around the State laws in order to make them work harmoniously.

Mr. ROOSEVELT. So, in essence, there is no preemption in the drug laws and the States do have the right to act, whereas this would be prohibiting them in the matter of cigarettes?

Mr. HARRIS. There are hundreds of drug manufacturers producing thousands of drugs, many sold only intrastate. There are only a few cigarette manufacturers producing a comparatively small number of brands of cigarettes which are sold throughout the 50 States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken; and on a division (demanded by Mr. ROOSEVELT) there were—ayes 102, noes 107.

Mr. BURTON of California. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. ROOSEVELT and Mr. HARRIS.

The Committee again divided and the tellers reported that there were—ayes 91, noes 146.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FINO

Mr. FINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINO: On page 4, strike out lines 7 and 8, and insert in lieu thereof the following: "bear the following statements: (1) 'Caution: Cigarette Smoking May Be Hazardous to Your Health' and (2) A statement of the nicotine content and tar content of the total number of cigarettes in the package. Each such state-".

On page 4, line 14, after "the statement" insert "set forth in clause (1) of the first sentence of this section".

Mr. FINO. Mr. Chairman, first, I would like to take this opportunity to compliment the committee and its able chairman, the gentleman from Arkansas [Mr. HARRIS], for the wisdom it showed in bringing out this Cigarette Labeling Act.

There is no question in my mind, and I doubt whether there is any question in the minds of the Members of this House, that Federal legislation is needed to protect the smoking public.

Mr. Chairman, the amendment that I have offered is an amendment to put some teeth into this bill. This bill as it now appears before us merely requires a statement that cigarette smoking may be hazardous to health, to be visibly set forth on the package.

Now, ladies and gentlemen of this House, I would like to ask: What real good is this item standing alone? Everyone knows, and I think we should all be convinced by this time, that cigarette smoking is hazardous to health. More than a mere statement of "hazard" should be included in this bill.

Mr. Chairman, for the past 10 years, I have introduced legislation, including legislation this year, H.R. 4244, to require that cigarette packages include not only the warning but statements of nicotine and tar content of the cigarettes. These represent the deadly statistics about which the cigarette-buying public should be informed. These are the statistics that the tobacco lobby is deadly afraid of. This is what the Congress ought to give the people—the right to know—if we are serious about lessening the health menace of cigarette smoking.

Mr. Chairman, the deadly effect of the tars in cigarettes, for example, has been indisputably proven. In the April 1965 issue of the Journal of the National Cancer Institute it was established that the incidence of skin tumor in mice varied very directly with the amount of tar in the cigarette smoke applied to the mice. In other words, the amount of tar in the cigarette was directly related to the mortality rate of the mice.

I believe that the statistics showing the amount of a fatal substance like tar ought to be required on every cigarette package.

Smokers themselves, according to the National Center of Health statistics, revealed that 70 percent of those questioned thought that cigarette smoking was enough of a health hazard for something to be done about it. By a ratio of 2 to 1 those interviewed favored compulsory warning on cigarette packages.

Eight out of ten also said they believed that a statement of tar and nicotine content should be required on each package.

Mr. Chairman, there is no need to dwell on the relationship between nicotine and health menace. Time and time again I have heard representatives of interested parties claim that there is no proven relationship between the ingredients of cigarettes and cancer. But the studies proving the contrary are legion, and establish that fact beyond any question of doubt.

I firmly believe that it is essential to the health of this Nation that these statistics be on each package of cigarettes. This is particularly true of the statistics of tar concentration in view of the fact that there is a direct link between the amount of tar and the fatality of the cigarettes.

I urge this House to act to see to it that these statistics are required to be printed on each package, and to that extent I have offered this amendment to require that each cigarette package sold in interstate commerce be required to have a statement of the nicotine content and the tar content of the total number of cigarettes in the package.

I urge the Members of this House to support this amendment as the most effective way to truly indicate to the public the actual menace of the cigarettes that are being purchased. I believe that a vote against this sort of disclosure is a vote against the best health of the people of this country.

Mr. Chairman, I simply urge the Members of this House to give serious consideration to this amendment because in my opinion this bill is not worth the paper it is written on unless you put teeth in it, and the tar and nicotine warning will provide the needed teeth to this bill.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the pending amendment.

I appreciate the intention behind the amendment which the gentleman has offered. I can certainly understand his viewpoint. We heard testimony from many people who are specialists in this field. The Surgeon General's report deals with the subject. Certainly they did not come to any such conclusion as the gentleman has proposed.

During the course of the hearings Dr. Luther L. Terry, Surgeon General, testified and told our committee that this is not involved here at all. I do not believe the House would approve such an impractical approach to this problem.

I therefore ask that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FINO].

The amendment was rejected.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on the pending bill do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Brooks, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee having had under consideration the bill (H.R. 3014) to regulate the labeling and advertising of cigarettes, and for other purposes, pursuant to House Resolution No. 421, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. RUMSFELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. RUMSFELD. I am, in its present form.

The Clerk read:

Mr. RUMSFELD moves to recommit the bill, H.R. 3014, to the Committee on Interstate and Foreign Commerce.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. BURTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD at the appropriate place on the bill just passed and to include therewith such extraneous matter as would be appropriate.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Cigarette Labeling Act".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "cigarette" means any roll of tobacco, wrapped in paper or any substance other than tobacco.

(b) The term "package" means a package, box, carton or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(c) The term "person" means any individual, partnership, corporation, or any other business or legal entity.

(d) The term "sale or distribution" includes sampling and means of distribution other than sales.

(e) The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

LABELING

SEC. 3. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement:

"Caution: Cigarette Smoking May be Hazardous to Your Health."

The foregoing statement shall be located on the front or back panel of every package, box, carton or other container in which cigarettes are offered for sale, sold, or otherwise supplied to consumers and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

PREEMPTION

SEC. 4. (a) No statement relating to smoking and health, other than the statement required by section 3 of this Act, shall be required on cigarette packages.

(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes.

(d) The Federal Trade Commission, with the cooperation of the Department of Health, Education, and Welfare, shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (1) the effectiveness of cigarette labeling, (2) current information on the health consequences of smoking, (3) current practices and methods of cigarette advertising and promotion, and (4) such recommendations for legislation as it may deem appropriate.

(e) The provisions of subsection (b) shall be effective only for the three-year period beginning on the effective date of this Act.

CRIMINAL PENALTY

SEC. 5. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$100,000.

INJUNCTION PROCEEDINGS

SEC. 6. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 7. Cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemption shall not apply to cigarettes manufactured, imported, or packaged for shipment to United States military vessels, installations, or shore-based activities wherever such vessels, installations, or activities may be located.

SEPARABILITY

SEC. 8. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 9. This Act shall take effect one hundred and twenty days after the date of its enactment.

Mr. HARRIS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Strike out all after the enacting clause of S. 559 and insert the provisions of H.R. 3014, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 3014, was laid on the table.

APPOINTMENT OF CONFEREES

Mr. HARRIS. Mr. Speaker, I move that the House insist upon the amendment of the House to the Senate bill, S. 559, and ask for a conference thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. HARRIS, ROGERS of Texas, O'BRIEN, KORNEGAY, SPRINGER, YOUNGER, and NELSEN.

DEDICATION OF HISTORIC ASSEMBLY ROOM OF INDEPENDENCE HALL AT PHILADELPHIA, JUNE 28, 1965.

The SPEAKER. Pursuant to the provisions of House Resolution 426, 89th Congress, the Chair appoints as members of the delegation to attend the dedication of the Historic Assembly Room of Independence Hall, to be held in Philadelphia, Pa., on June 28, 1965, the following Members of the House: Mr. BYRNE of Pennsylvania, chairman; Mrs. KELLY, Mr. NIX, Mr. GALLAGHER, Mr. CURTIN, Mr. CAHILL, Mr. McDADE, Mr. JOHNSON of Pennsylvania.

TWENTIETH ANNIVERSARY OF UNITED NATIONS—JUNE 26, 1965 "INTERNATIONAL COOPERATION YEAR"

Mr. FASCELL. Mr. Speaker, before the House passed Senate Concurrent Resolution 36, it was amended to correct

a typographical error that appeared in the reported version of the resolution.

Upon further investigation, I find that the engrossed copy of the Senate concurrent resolution is correct and that no amendment was necessary.

Therefore, Mr. Speaker, I ask unanimous consent that the proceedings whereby Senate Concurrent Resolution 36 was amended and agreed to be vacated and that it be considered as agreed to without amendment.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The Senate concurrent resolution is as follows:

S. CON. RES. 36

Whereas the year 1965 marks the twentieth anniversary of the United Nations which will be celebrated in San Francisco on June 26, 1965; and

Whereas the United Nations General Assembly has designated the year 1965 as "International Cooperation Year"; and

Whereas the President of the United States has proclaimed 1965 as "International Cooperation Year," and has set up a broad program within the executive branch to review our present international policies in cooperation with a bipartisan group of distinguished private citizens; and

Whereas the President has charged those participating in the International Cooperation Year program to "search and explore and canvass and thoroughly discuss every conceivable approach and avenue of cooperation that could lead to peace"; and

Whereas the International Cooperation Year program will culminate in a White House Conference on International Cooperation which the President has announced he will convene in November 1965; and

Whereas during the twenty years of its existence the United Nations has played an important, and at times crucial, role in pursuit of one of its stated purposes "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind"; and

Whereas during that time the United Nations has also performed a valuable service through the specialized agencies and otherwise in helping to establish human rights and to eliminate those ancient enemies of mankind—hunger, poverty, disease, and ignorance: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States of America rededicates itself to the principles of the United Nations and to the furtherance of international cooperation within the framework of law and order; and that all other members of the United Nations are urged to do likewise.

SEC. 2. It is further the sense of the Congress that in connection with the examination for International Cooperation Year of United States participation in international cooperative activities, the executive branch should—

(1) review with a high sense of urgency the current state of international peacekeeping machinery with a view to making specific suggestions for strengthening this machinery, (2) review other major elements of international community and cooperation with a view to making specific suggestions to promote the growth of institutions of international cooperation and law and order, and (3) review urgently the status of disarmament negotiations with a view to further progress in reducing the dangers and burden of competitive national armaments.

Sec. 3. In order to provide for participation by the Congress in the White House Conference on International Cooperation, subject to an invitation by the President, there is hereby created a congressional delegation of twelve members to be composed of six Members of the Senate appointed by the President pro tempore of the Senate and six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Any vacancy in the membership of the delegation shall be filled in the same manner as in the case of the original appointments.

A motion to reconsider was laid on the table.

CORRECTION OF ROLL CALL

Mr. RHODES of Pennsylvania. Mr. Speaker, on roll call No. 146 on yesterday I am not recorded as having voted. I was present and voted "yea" and ask unanimous consent that the RECORD and Journal be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

COINAGE ACT OF 1965

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I want to call to the attention of my colleagues the absence of H.R. 8926, the Coinage Act of 1965, from the program for the House this week. It is indeed unfortunate that the Rules Committee has not given a ruling on this bill to the Committee on Banking and Currency enabling them to bring this matter of great urgency and importance before the Committee of the Whole House.

For the past 2 years, Mr. Speaker, I have advocated that a change in our coinage system must be made, one which would eliminate the dependence of our coins, as a circulating medium of exchange, upon a tenuous supply of silver for the minting of these coins. During the last session of Congress, I introduced a joint resolution providing for a study and report to Congress by the Secretary of the Treasury concerning the use of some material other than silver in the minting of subsidiary coins.

I pointed out at that time, as I have done repeatedly during this session of Congress, that:

There is an increasing gap between the consumption of silver and the supply of that precious metal;

The U.S. consumption of silver, for coinage alone, exceeds the annual free world production;

The day is at hand when there is just not enough silver to fulfill the requirements for either coinage or industry;

There is no workable substitute for many of the uses of silver in industry; but

There are substitutes for silver in the metal content of our subsidiary coins.

I asked, in the joint resolution, that the Secretary of the Treasury make an immediate and intensive study of possible substitutes for silver in the minting of subsidiary coins and report to the Congress the results of this study, to-

gether with legislative recommendations for a new system of coinage for this country—sufficient to meet the demands that are being made and will be made on that system.

I have seen my efforts, and those of my colleagues here in the Congress who are aware and concerned about the problems confronting our coinage system, come to fruition within the last, too few, and too short days. But, just as so many of us had feared that we had been forced to wait until the last possible hour to make a change in our coinage system, that could be a timely and orderly transition, it now appears that we have been hurried through the important initial phase of the legislative process for the new coinage system, only to wait and wait and lose the momentum that had been gained.

The old clichés that "time is money" and "the price of delay is dear" aptly characterize the situation with which we are now confronted. In this instance, I can cite for you the cost of that delay, for each hour, each day, or each week that it may be prolonged.

The President's message on coinage and the accompanying Treasury staff study of silver and coinage were placed in our hands at noon on Thursday, June 3. Less than 24 hours later, at 10 o'clock in the morning, on Friday, June 4, the gavel rang down opening hearings before the House Banking and Currency Committee on the Coinage Act of 1965. Those hearings were conducted in an atmosphere of urgency, prompted by the statements made both by the President and the Secretary of the Treasury urging approval of the new coinage system at the earliest possible date.

I asked, on the day that we received the President's message and legislative recommendations, that we all be given time to study these proposals before hearings were initiated. That time was not made available and forced many of us to work long hours during the few days that were set aside for hearings, in order to adequately evaluate the complex new proposals so that constructive criticisms and suggestions could be made. We met that challenge and the Banking and Currency Committee has acted competently and with dispatch. The extra efforts of that committee and all of the individuals who appeared before it during its hearings would have been justified by the continued speedy response of this body to the requests of the administration.

But, the time gained by those efforts is now being whiled away in the idle hours during which we await a ruling from the Rules Committee. Each day that passes that we are unable to act on this important piece of legislation is another day that the present silver-content coins will be minted—minted at an annual rate of 9 billion coins and a silver consumption of more than 300 million ounces, over 10,000 tons.

At the average minting rate of the subsidiary coins for the calendar year 1965, each day is accounting for the use of almost a million ounces of silver from a silver supply, the very criticality of which, has prompted the need for this legislation, now.

The President said in his message to the Congress on the new coinage system, that:

Prompt action on a new coinage will help us protect the silver coinage by freeing our silver reserves from redemption of silver certificates at \$1.29 per ounce. Thus, we can assure that no incentive will be created for hoarding our present coins in anticipation of a higher price for their silver content.

Every day that we delay weakens our ability to effect a transition to the new system of coinage—a transition that would not have been easy 2 years ago and promises to be quite difficult today.

Every day that we delay costs us approximately 1 million ounces of silver. Those 1 million ounces of silver that will be used today, and another tomorrow, and so on until we make the transition to a new system of coinage, would have supplied the photographic industry with its silver requirements for more than a week; it would have been more than 2 weeks' supply of silver for the electronics industry; 1 million ounces of silver is enough to meet the needs of the battery manufacturers of the United States for an entire month and are equivalent to an entire year's silver supply for the missile industry.

The bill for which this body is waiting is a fine piece of legislation. It is not just another in the long line of remedial, stop-gap measures that have been tried to cure the ills of our ailing coinage system. It is a measure that meets the dual problems of coinage and silver head-on. It looks to the future of this country's coinage with the breadth of vision of our predecessors, who gave us our system of coinage more than 173 years ago.

I believe that those of us here today are impatient to get on with the business of this country with a system of coinage that will fulfill its primary function as a medium of exchange in the commercial transactions of the millions of coin users.

THE QUEST FOR PEACE

(Mr. NIX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIX. Mr. Speaker, along with the relentless revolution for human rights, the other vibrant and compelling issue in the world of today is the quest for peace. Even those of our citizens who live in the most remote sections of our country cannot help but be aware of the widespread interest expressed by an ever-increasing variety of our citizens in world peace and equal justice for all people, without regard to race or color.

It has been made abundantly clear in recent months that the quest for peace and the posture of our Nation as reflected by our foreign policy is a matter of growing concern on the part of hundreds, yes, thousands of our citizens. Mr. Speaker, this is as it should be. This is evidence that our country is indeed in a state of excellent health. History has shown that as surely as day follows day, a country will wither and die if the interest of its citizens is lost.

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HIGHLIGHTS: Several Reps. and Sens. criticized food for Egypt. Rep. Ashbrook commended fight on cereal leaf beetle. Rep. Findley inserted FTC letter on cotton investigation. Rules Committee cleared area redevelopment bill.

HOUSE

1. WATER PROJECTS. Agreed to the conference report on S. 1229, to provide uniform policies with respect to recreation and fish-wildlife benefits and costs of Federal multi-purpose water resource projects. p. 13946
2. DEFENSE APPROPRIATION BILL. Passed without amendment this bill, H. R. 9221. pp. 13946-81
3. FOREIGN AID. Reps. Farbstoin, Fino, and Horton spoke against shipment of food to Egypt. pp. 13983, 13985-6
4. PERSONNEL. Rep. Nelsen criticized proposals to exempt supergrade employees from the Hatch Political Activities Act. pp. 13983-5
Rep. Mathias deplored alleged solicitation of Government employees for political contributions. p. 13985

5. INSECT CONTROL; RESEARCH. Rep. Ashbrook spoke on the damage caused by the cereal leaf beetle, commended the Department's efforts against this insect, and inserted an article by Joseph F. Spears of the Department. pp. 13986-7
6. COTTON PRICES. Rep. Findley inserted his letter to the Federal Trade Commission asking for an investigation of increases in cotton textile prices despite "the drop in cost of raw cotton made possible by last year's legislation" and the Commission's reply agreeing to "continue to review" the situation. p. 13987
7. FOREIGN TRADE. Rep. Dent defended protective tariffs and said our share of the world markets has been shrinking in spite of Public Law 480 shipments. pp. 13993-6
Rep. Thompson, Tex., spoke in favor of amending the antidumping law so as to eliminate "those aspects of the act's administration which have at times been uncertain and cumbersome." pp. 14003-4
8. POTOMAC RIVER BASIN. Rep. Mathias spoke in support of proposals to foster conservation of natural resources in this Basin. pp. 13999-14002
9. ECONOMIC POLICY. Rep. Boggs spoke on "our safeguards against depression." pp. 14007-11
10. AREA REDEVELOPMENT. The Rules Committee reported a resolution for consideration of H. J. Res. 541, to continue the Area Redevelopment Act for 2 months. p. 14015
Both Houses
11. TRANSPORTATION. /received the annual report of the St. Lawrence Seaway Development Corporation (H. Doc. 218). pp. 13945-6, 14019

SENATE

12. EXPORT CONTROL. The Banking and Currency Committee reported without amendment H. R. 7105, to continue the Export Control Act for 4 years (S. Rept. 363). p. 140200
13. CIGARETTE LABELING. Senate conferees were appointed on S. 559, to regulate the labeling of cigarettes (pp. 140200-1). House conferees have already been appointed.
14. ELECTRIFICATION. Sen. Douglas commended the reappointment of Joseph Swidler as Chairman of the Federal Power Commission. pp. 14026-7
15. RECREATION. Sens. Gruening and Douglas commended Senate passage of the bill to establish the Indiana Dunes National Lakeshore and urged speedy House passage. pp. 14027, 14028
16. MILK. Sen. Mondale inserted a letter from a Minn. dairy supporting the bill to provide orderly milk marketing. p. 14030
17. FOREIGN AID. Sens. Harris and Gruening spoke against shipment of food to Egypt. pp. 14033-4, 14046-9
Sen. Williams, Del., inserted two articles, "Government Charges 23 Concerns Diverted \$13.7 Million of Grains Aimed for Austria," and "New Orleans Grain Exporter Pleads Guilty on Fraud in \$6 Million Shipment for Austria." pp. 14035-6

Senate

WEDNESDAY, JUNE 23, 1965

The Senate met at 12 o'clock meridian, and was called to order by the Vice President.

Rabbi Abraham Chill, Congregation of Sons of Abraham, Providence, R.I., offered the following prayer:

Av Horachamim Shochan Bamromin.
-God of mercy, who dwellest on high: In Thy fatherly care do we place our faith and our trust. Unto Thee our eyes are turned in humble supplication, and unto Thee our hearts are grateful for the abundance of blessings that Thou dost bestow upon us citizens of this great democracy.

Help us, O Heavenly Father, never to become casual, or to lose our sensibility, consciousness, and appreciation of Thy grace in permitting us to live and toil in a free and unshackled society. No greater gift can man ask; no greater gift can man receive.

O gracious Father, verily it was Thou who didst inspire man and give him the superlative intellect to solve the awesome mysteries in realms on high and in the areas beyond the horizon.

At the same time, we implore Thee to stir and move us to search for answers in the innermost recesses of our hearts, so that we may ferret out all vestiges of inhuman discriminations and unspeakable cruelties that are untenable in this advanced stage of civilization.

Finally, we ask Thy blessings upon the President and the Vice President of these United States, and upon our legislators. Concretize their aspirations to eradicate poverty and disease from this Nation of plenty. Crystallize their hopes for a tolerant society. Answer their prayers that accompany their efforts to bring serenity, sobriety, and peace to a confused and despairing world.

All this we ask in Thy name, O Thou who art above us. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, June 22, 1965, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Jones, one of his secretaries.

REPORT OF ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION— MESSAGE FROM THE PRESIDENT (H. DOC. NO. 218)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the provisions of section 10 of Public Law 358, 83d Congress, I transmit herewith for the information of the Congress the Annual Report of the St. Lawrence Seaway Development Corp., covering its activities for the year ended December 31, 1964.

LYNDON B. JOHNSON.
THE WHITE HOUSE, June 23, 1965.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HARRIS, Mr. ROGERS of Texas, Mr. O'BRIEN, Mr. KORNEGAY, Mr. SPRINGER, Mr. YOUNGER, and Mr. NELSEN were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1229) to provide uniform policies with respect to recreation and fish and wildlife benefits and costs of Federal multiple-purpose water resource projects, and for other purposes.

The message further announced that the House had agreed to the concurrent resolution (S. Con. Res. 36) expressing the sense of the Congress with respect to the 20th anniversary of the United Nations during International Cooperation Year, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5497. An act to amend paragraphs b and c of section 14 of the Bankruptcy Act; and

H.R. 9220. An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission, for the fiscal year ending June 30, 1966, and for other purposes.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 416) to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1796) to amend the Small Business Act to provide additional assistance for disaster victims, and it was signed by the Vice President.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 5497. An act to amend paragraphs b and c of section 14 of the Bankruptcy Act; to the Committee on the Judiciary.

H.R. 9220. An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Saint Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Delaware River Basin Commission, for the fiscal year ending June 30, 1966, and for other purposes; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 416) to request the President of the United States to urge certain actions in behalf of Lithuania, Estonia, and Latvia, was referred to the Committee on Foreign Relations.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

On request of Mr. MANSFIELD, and by unanimous consent, statements during the transaction of routine morning business were ordered limited to 3 minutes.

SUBCOMMITTEE MEETINGS DURING SENATE SESSIONS

On request of Mr. MANSFIELD, and by unanimous consent, the Subcommittee on Labor of the Committee on Labor and Public Welfare, the Subcommittee on Constitutional Rights and the Subcommittee on Constitutional Amendments of the Committee on the Judiciary, and the Subcommittee on Intergovernmental Relations of the Committee on Government Operations were authorized to meet during the session of the Senate today.

On request of Mr. MANSFIELD, and by unanimous consent, the Subcommittee on Health, Education, Welfare, and Safety of the Committee on the District of Columbia was authorized to meet during the session of the Senate today.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. 1903. A bill to amend the United Nations Participation Act, as amended (63 Stat. 734-736) (Rept. No. 360).

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S.J. Res. 71. Joint resolution to amend the joint resolution of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission (Rept. No. 361).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment:

S. 1760. A bill to authorize the acceptance of a settlement of certain indebtedness of Greece to the United States and to authorize the use of the payments resulting from the settlement for a cultural and educational exchange program (Rept. No. 362).

By Mr. ROBERTSON, from the Committee on Banking and Currency, without amendment:

H.R. 7105. An act to provide for continuation of authority for regulation of exports, and for other purposes (Rept. No. 363).

By Mr. BARTLETT, from the Committee on Commerce, without amendment:

H.R. 5988. An act to provide that Commissioners of the Federal Maritime Commission shall hereafter be appointed for a term of 5 years, and for other purposes (Rept. No. 364).

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. AIKEN:

S. 2178. A bill to establish the Robert Frost National Historic Site in the State of Vermont, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PROUTY:

S. 2179. A bill for the relief of Serafin Singla and Teresa Tornos Singla; to the Committee on the Judiciary.

By Mr. McGEE (for himself and Mr. Moss):

S. 2180. A bill to improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission; to the Committee on Commerce.

(See the remarks of Mr. McGEE when he introduced the above bill, which appear under a separate heading.)

By Mr. LONG of Missouri:

S. 2181. A bill for the relief of Israel Giladi; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 2182. A bill to revise the boundary of Jewel Cave National Monument in the State of South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MUNDT:

S. 2183. A bill to revise the boundary of Jewel Cave National Monument in the State of South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (for himself and Mr. MURPHY):

S. 2184. A bill to require clinical laboratories which transact business in interstate commerce to comply with minimum standards prescribed by the Surgeon General in the performance of laboratory procedures, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. JAVITS when he introduced the above bill, which appear under a separate heading.)

By Mr. INOUE:

S. 2185. A bill to amend the act entitled "An act to establish eligibility for burial in

national cemeteries, and for other purposes," approved May 14, 1948, so as to permit the parents of certain persons to be buried in national cemeteries; to the Committee on Interior and Insular Affairs.

By Mr. ERVIN:

S. 2186. A bill conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Bernard J. Campbell; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mr. MONTOYA):

S.J. Res. 92. Joint resolution authorizing the Secretary of the Interior to establish a memorial museum at Las Vegas, N. Mex., in honor of the Roosevelt Rough Riders; to the Committee on Interior and Insular Affairs.

IMPROVEMENT OF SAFETY OF RAILROAD TRANSPORTATION UNDER THE JURISDICTION OF THE INTERSTATE COMMERCE COMMISSION

Mr. McGEE. Mr. President, I introduce for appropriate reference, with my good friend the junior Senator from Utah [Mr. Moss], a bill to improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission.

This bill would do this by reducing the maximum permissible number of continuous hours that a railroad employee may work from 16 to 12. This bill would make it unlawful for any railroad to require or permit an employee to continue on duty after 12 consecutive hours or to go back on duty if he has not had at least 8 consecutive off-duty hours in the preceding 24-hour period.

Mr. President, it seems obvious to me that in a profession such as railroading where there is rapid movement and heavy equipment that the chance for accident and injury increases markedly when employees are fatigued from long hours of service. Therefore, I think this bill would go a long way toward promoting safety on the railroads and I hope it shall be given prompt consideration by the Congress. I would note that an exemption is provided for crews of wreck trains or relief trains, who may be allowed to remain on duty to clear the scene of a wreck or for other emergency duties.

Mr. President, I ask unanimous consent that this bill be held at the desk until July 9 so that any of my colleagues who so desire may join me in sponsorship.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be held at the desk, as requested by the Senator from Wyoming.

The bill (S. 2180) to improve the safety of railroad transportation under the jurisdiction of the Interstate Commerce Commission, introduced by Mr. McGEE (for himself and Mr. Moss), was received, read twice by its title, and referred to the Committee on Commerce.

REGULATION OF LABELING OF CIGARETTES

The VICE PRESIDENT laid before the Senate the amendment of the House of

Representatives to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, which was, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Federal Cigarette Labeling and Advertising Act".

FINDINGS

SEC. 2. The Congress hereby makes the following findings:

(a) A Federal program dealing with cigarette labeling and advertising is desirable to provide national uniformity in labeling and advertising requirements for the cigarette industry.

(b) The production, processing and distribution of cigarettes, the employment directly and indirectly resulting therefrom, and the revenues derived from taxes imposed thereon, affect commerce and the national economy.

DECLARATION OF POLICY

SEC. 3. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(a) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes.

(b) Commerce and the national economy may be (i) protected to the maximum extent consistent with this declared policy and (ii) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

DEFINITIONS

SEC. 4. As used in this Act—

(a) "Cigarette" means any roll of tobacco or other substance wrapped in paper or in any substance other than tobacco, and intended for smoking.

(b) "Commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnson Island and any place outside thereof; (2) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnson Island, but through any place outside thereof; or (3) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnson Island.

(c) "United States," when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnson Island.

(d) "Package" means a pack or box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise supplied to consumers.

(e) "Person" means an individual, partnership, corporation, or any other business or legal entity.

(f) "Sale or distribution" includes sampling or any other distribution not for sale.

LABELING

SEC. 5. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." The foregoing statement shall appear in print contrasting to the background on either of the two side panels of the pack,

or in the case of a cylindrical pack on the side thereof, in not less than ten-point type on a twelve-point body. In the case of boxes, cartons, or containers of any kind, other than the individual pack, containing cigarettes, the statement shall be printed in print contrasting to the background on a side in not less than twelve-point type on a fourteen-point base.

ADVERTISING

SEC. 6. Nothing herein contained shall be construed to limit or to expand the authority of the Federal Trade Commission with respect to the dissemination in commerce of any false or misleading advertisement of cigarettes, provided that the Commission shall not have authority in any proceeding under any statute administered by the Commission to require the inclusion in any advertisement of any statement with respect to smoking and health where the advertised cigarettes have been packaged in conformity with the labeling provisions of this Act. No Federal agency shall require any additional caution statement with respect to smoking and health on any package labeled in conformity with this Act.

PREEMPTION

SEC. 7. No caution statement with respect to smoking and health other than specified herein shall be required on any package. No caution statement with respect to smoking and health shall be required in advertising for cigarettes packaged in conformity with the labeling provisions of this Act.

CRIMINAL PENALTY

SEC. 8. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

INJUNCTION PROCEEDINGS

SEC. 9. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 10. Cigarettes manufactured, imported or packaged (a) for export from the United States or (b) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act: *Provided*, That such exemptions shall not extend to cigarettes manufactured, imported or packaged for shipment to United States military vessels or shore-based activities wherever such vessels or activities may be located.

SEPARABILITY

SEC. 11. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 12. This Act shall take effect one hundred and eighty days after the date of its enactment.

Mr. MAGNUSON. I move that the Senate disagree to the amendment of the House of Representatives, agree to the conference requested by the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. PASTORE, Mr. HARTKE, Mr. CANNON, Mrs. NEUBERGER, Mr. McGEE, Mr. COTTON, Mr. MORTON, and Mr. SCOTT conferees on the part of the Senate.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the names of the distinguished Senator from Wyoming [Mr. McGEE] and the distinguished Senator from Pennsylvania [Mr. SCOTT] be added as conferees on S. 559.

The VICE PRESIDENT. Without objection, it is so ordered.

PRINTING OF REVIEW OF REPORT ON REPLACEMENT OF CADDO DAM, LA. (S. DOC. NO. 39)

Mr. McNAMARA. Mr. President, I present a letter from the Secretary of the Army, transmitting a report dated April 13, 1965, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on a review of reports on replacement of Caddo Dam, La., requested by a resolution of the Committee on Public Works, U.S. Senate.

I ask unanimous consent that the report be printed as a Senate document, with an illustration, and referred to the Committee on Public Works.

The VICE PRESIDENT. Without objection, it is so ordered.

COINAGE OF THE UNITED STATES—AMENDMENTS

AMENDMENT NO. 287

Mr. SIMPSON (for himself, Mr. METCALF, Mr. CANNON, Mr. JORDAN of Idaho, Mr. MANSFIELD, and Mr. MOSS) submitted amendments, intended to be proposed by them, jointly, to the bill (S. 2080) to provide for the coinage of the United States, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 288

Mr. LAUSCHE submitted an amendment, intended to be proposed by him, to Senate bill 2080, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 289

Mr. MAGNUSON submitted an amendment, intended to be proposed by him, to Senate bill 2080, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 290

Mr. DOMINICK submitted an amendment, intended to be proposed by him, to Senate bill 2080, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 291

Mr. BIBLE. Mr. President, on behalf of myself and Senators FANNIN, JORDAN of Idaho, McGEE, MAGNUSON, METCALF, MOSS, CANNON, CHURCH, BARTLETT, and GRUENING, I submit an amendment to Senate bill 2080, supra, and ask that it be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and will lie on the table; and, without objection, the explanation will be printed in the RECORD.

Mr. BIBLE. Mr. President, the proposed amendment would permit the exportation of U.S. coins with certain exceptions as provided in language adding a new section to section 211(a), chapter

18, of title 18, United States Code. The language is self-explanatory.

Here again S. 2080 gives the Secretary of the Treasury the authority to prohibit exportation of coins by regulation. It is believed desirable to prohibit exportation by law.

The world shortage of silver production as reflected in the following statistics as affecting the United States adversely during the year 1964:

[In millions of ounces]		
Year	Imports	Exports
1960.....	56.1	26.6
1961.....	48.9	39.8
1962.....	76.4	13.1
1963.....	64.0	31.5
1964.....	54.0	99.0

The above table reflects a net deficit of 45 million fine troy ounces of silver during the year 1964. Whether this is caused by foreign nations' expanded industrial uses or by speculation is not known. Nevertheless, since the present law and S. 2080 still permit redemption of silver certificates in silver bullion, it is possible that sources in the United States could redeem silver certificates for silver bullion and export the silver.

If the free market price of silver rises above \$1.2929 and \$1.38, silver dollars and silver coins could be exported under present law and could be melted to the disadvantage of this Nation in its attempt to keep in circulation existing stocks of silver coins.

It is also interesting to note that the net deficit of silver did not occur until the Silver Purchase Act was repealed.

AMENDMENT NO. 292

Mr. BIBLE. Mr. President, on behalf of myself and Senators FANNIN, McGEE, MAGNUSON, METCALF, MOSS, CANNON, CHURCH, BARTLETT, and GRUENING, I submit an amendment to Senate bill 2080, supra, and ask that it be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and will lie on the table; and, without objection, the explanation will be printed in the RECORD.

Mr. BIBLE. Mr. President, the proposed amendment would add a new section by amending section 212(a), chapter 17, of title 18, United States Code, entitled "Coins as Collateral for Loans." The amendment is self-explanatory.

It is a known fact that loans have been made where U.S. coins have been used as security. The proposed amendment would not prohibit the lending of money on bona fide collections of rare coins. The determination of rare coins would be left to the Secretary of the Treasury and would cause the Secretary to publish from time to time in the Federal Register a list of coins in the United States which, because of their rarity, have a value to bona fide collectors of coins in excess of their monetary value.

Such an amendment would stop much speculation in coins. Speculators, to the detriment of our coinage system, have secured loans and have advertised coins in excess of their monetary value for sale to the public. It is estimated that

there are over 10 million coin collectors in the United States. Coins such as silver dollars have actually been advertised for sale by the bag containing 1,000 silver dollars. It is believed the great majority of the persons making such offerings are speculators. The result has caused the disappearance of the silver dollar in normal channels of trade. It is believed many of the silver dollars are in bank vaults with the speculators awaiting an opportunity to dispose of them at a profit. Advertisements are available which show definitely such loans have been made.

This practice could be controlled to a great extent if the amendment were adopted. It would at least stop those persons who are now advertising such sales as they would be fearful of the penalties.

Coins of a rare value are known to the coin collectors for they now have a book which is published annually, "The Red Book," which gives listings of value.

Subsidiary coins have also been bought and sold at a premium in excess of their value. Such sales have been made mostly to business concerns which demand large amounts of small coins to service their trade. It is believed there are ample coins to meet our present needs if the coins could be kept in circulation. Minting of coins has accelerated at a rapid rate in recent years and while the estimated figures on coins in circulation show a slight increase, the proposed amendment should be helpful in keeping our coins in circulation.

AMENDMENT NO. 293

Mr. BIBLE. Mr. President, on behalf of myself and Senators FANNIN, McGEE, MAGNUSON, METCALF, MOSS, CANNON, CHURCH, BARTLETT, and GRUENING, I submit an amendment to Senate bill 2080, supra, and ask that it be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and will lie on the table; and, without objection, the explanation will be printed in the RECORD.

Mr. BIBLE. Mr. President, I consider the amendment to prohibit the melting of our coinage imperative. I do not feel we should give authority to the Secretary of the Treasury to stop the melting of coins by regulation. We should write it into this bill.

For one thing, melting of our coinage is already going on. This may come as a surprise to some. However, during the years from October 1942 until December 1945, the Mint manufactured nickels with silver content rather than nickel. This was done as nickel was in short supply during the war years. These nickels are now worth approximately 7½ cents when melted and the metals are recovered for sale.

To produce these nickels 48,699,548 troy ounces of silver were used. There is evidence the nickels are still being sought and are, in fact, being melted down.

I wish to bring to your attention an advertisement which was published in the Coin World, June 16, 1965. It is my understanding this publication has a

readership well in excess of 100,000. The advertisement states:

[From Coin World, June 16, 1965]

Wartime nickels: Write for bag pickup prices between New York and Chicago or ship any amount, any condition, for an instantaneously airmailed \$2.50 per roll. 65 tons received here since 1962. Many thanks, folks. Will continue buying unless an antismelting law becomes imminent. Bob Lamp, 1358 Cranford Avenue, Lakewood, Ohio.

Now, I am sure when this one purchaser of nickels points out that he will not buy if "antismelting" laws become effective, that this body should give consideration to my amendment to prohibit such practices.

I have received calls from other Senators' offices asking if my bill, S. 2036, would, in effect, put these operators out of business. It would, indeed, and so will the inclusion of an amendment prohibiting melting of coinage, if embodied in S. 2080.

The proposed attached amendment will add a new paragraph to section 331 of title 18, United States Code. This paragraph will prohibit the melting of any silver coins produced at the mints of the United States except as authorized by law. The Mint currently receives worn coins and remelts these coins, claiming the metals for usage in newly minted coins.

This amendment is believed necessary to preclude the melting of coins should the price of free market silver rise above \$1.2929 per fine troy ounce.

Penalties would remain the same as provided in section 331 of title 18, United States Code; namely, "Shall be fined not more than \$2,000, or imprisoned not more than 5 years, or both."

S. 2080 gives the Secretary of the Treasury in section 105(a), page 10, of the bill authority under such rules and regulations as he prescribes to prohibit melting of any coin. The attached amendment would prohibit the melting of coins by force of law.

Should the free market price of silver rise about \$1.2929 per fine troy ounce, silver dollars could be melted and a profit could be realized. If the free market price should rise above \$1.38 per fine troy ounce, subsidiary coinage, dimes, quarters, and half dollars, could be melted at a profit.

Our coinage should be maintained for the purpose it was intended and melting of coins should be prohibited by law. It is evident that some persons are speculating on an increase in the price of silver at the free market level. Silver dollars have, in less than 2 years, practically disappeared from circulation. Whether these dollars are being held for the purpose of melting to recover metals at a profit is conjecture. Nevertheless, melting of U.S. coins should be prohibited.

Questions have been raised as to the problem of enforcement. It is doubtful that the amendment prohibiting melting would be more difficult to enforce than present laws prohibiting defacement of coins. In any event it would act as a deterrent.

SECRETARY WIRTZ ENDORSES A NATIONAL REFERENDUM ON REPEAL OF SECTION 14 (b)—AMENDMENT

AMENDMENT NO. 294

Mr. PROUTY. Mr. President, yesterday morning Secretary of Labor Willard W. Wirtz testified before the Senate Committee on Labor and Public Welfare, which is holding hearings on the administration's proposal to repeal section 14b of the Taft-Hartley Act.

In the course of the hearing I asked Secretary Wirtz whether, in view of his belief that the majority of the American people favored repeal of section 14(b), he would be in favor of a national referendum on the issue.

Secretary Wirtz replied:

I would be if that referendum could be held sufficiently quickly that it would not slow up what I consider to be the Congress discharge of its obligation at this point, and if that issue could be fairly posed so that it would be understood.

Then, after emphasizing the importance of an objective phrasing of the referendum question, the Secretary went on to say:

I would think that a testing of the popular will would be a good thing, but again I say only if it could be done under circumstances and in time that would permit the discharge by the Government of what seems to me its obligation at this point.

Mr. President, I am delighted that Secretary Wirtz, the administration's chief spokesman on labor matters, has taken this position on the issue.

On Monday I submitted an amendment to S. 256 that provides for just such a national referendum on the repeal of section 14(b). My amendment, numbered 284, provides that repeal of section 14(b) by the Congress shall not go into effect until approved by a majority of those voting in a special national referendum to be conducted on November 2, 1965, or on some later date as fixed by the President.

The question to be presented to the voters in the referendum has been carefully designed to eliminate any possible bias in the statement of the proposition. It merely asks the voter to indicate his approval or disapproval of the congressional statute repealing 14(b) and making conforming changes. I am sure that stating the question in this form will satisfy Secretary Wirtz' condition that the question be stated without any "semantic overtones."

My amendment would also meet the Secretary's condition that action on section 14(b) be prompt. Under my amendment the entire issue would be settled by November 3—just 130 days from today.

Mr. President, I want to commend Secretary Wirtz for his endorsement, in principle, of a national referendum on section 14(b). Secretary Wirtz, like the junior Senator from Vermont, is not afraid to let the people speak. I share his faith that the American people will fairly and justly decide this matter, on which emotions have so often flared.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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Issued July 2, 1965
For actions of July 1, 1965
89th-1st; No. 119

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HIGHLIGHTS: House passed bill to postpone wheat referendum. House received conference report on cigarette labeling bill.

HOUSE

1. WHEAT. Passed without amendment H. R. 9497, to permit postponement of the wheat referendum until 30 days after the current session of Congress ends. p. 14956
2. CIGARETTE LABELING. Received the conference report on S. 559, the cigarette labeling bill (H. Rept. 586). pp. 14951-2
3. D. C. APPROPRIATION BILL. Agreed to the conference report on this bill, H. R. 6453. pp. 14953-6
4. WATER SHORTAGE. Rep. McCarthy suggested diversion of Hudson-Bay bound rivers into the Great Lakes, and Rep. Resnick recommended his bill, H. R. 9459, authorizing loans, etc., to relieve the water shortage. pp. 14957, 14978
5. HOUSING. Rep. Perkins spoke in favor of grants for rural housing and inserted

an article, "The Rural Housing Grant Program: A History of Its Accomplishment." pp. 14963-5

6. EDUCATION. The Education and Labor Committee reported with amendment H. R. 9022, to amend the law authorizing aid to education in Federally impacted areas (H. Rept. 587). p. 14982
7. LEGISLATIVE PROGRAM. The majority leader announced that there will be no business today and that the House will adjourn until Tues., when the voting-rights bill will be taken up. p. 14950

SENATE

8. RECLAMATION. Pursuant to a motion by Sen. Ellender (June 25) to reconsider the passage of S. 602, to amend the Small Reclamation Projects Act of 1956, the bill was recalled and passed after adopting an amendment by Sen. Mansfield to delete language in the bill with respect to computation of interest rates on projects already constructed (pp. 14922-3). See Digest 115 for other provisions of the bill.
A subcommittee of the Interior and Insular Affairs Committee approved for full committee consideration with amendments S. 34, authorizing the Garrison diversion unit of the Missouri River Basin project; and S. 1088, authorizing the Touchet division, Walla Walla project, Ore. and Wash. p. D603
9. RICE. Received a Calif. Legislature resolution urging Congress "to restore and continue the financial support of the rice research program." pp. 14893-4
10. ANIMAL DISEASE. Received a Calif. Legislature resolution urging Congress "to construct an animal-proof fence along the international border between the United States and Mexico in California...in order to eliminate the crossing of the border by rabid animals" p. 14894
11. 4-H CLUB WORK. Sen. Stennis inserted a Kans. 4-H Foundation citation to Sen. Carlson in recognition of his service to 4-H Club youth work. pp. 14899-900
12. SCHOOL LUNCH. Sen. Hart stated that he intended to submit an amendment to the USDA appropriation bill to "restore \$2 million cut by the House--money which would add to the school lunch program special help for schools in acutely needy areas." pp. 14903-5
13. FOREIGN AID. Sen. Gruening inserted an editorial critical of the lifting of suspension on aid to Egypt. pp. 14910-11
14. FARM LABOR. Sen. Williams, N. J., inserted articles and letters which he stated he hoped would "put to rest the myth that the rise in food prices is attributable to the ending of the importation of foreign workers or a lack of American farmworkers to harvest our Nation's crops." pp. 14911-14
15. STRIP MINING. Sen. Nelson inserted an article, "Kentucky Strip Mining: Mountaineers Say It Kills Their Land." pp. 14914-15
16. NATURAL RESOURCES. Sen. Moss discussed the importance of conserving our natural resources listing the role of the various agencies of this Department. pp. 14924-30

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

JULY 1, 1965.—Ordered to be printed

Mr. HARRIS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 559]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That this Act may be cited as the "Federal Cigarette Labeling and Advertising Act".*

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "cigarette" means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(2) The term "commerce" means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island.

(4) The term "package" means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(5) The term "person" means an individual, partnership, corporation, or any other business or legal entity.

(6) The term "sale or distribution" includes sampling or any other distribution not for sale.

LABELING

SEC. 4. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement:

"Caution: Cigarette Smoking May Be Hazardous to Your Health."

Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

PREEMPTION

SEC. 5. (a) No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

(c) *Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement.*

(d)(1) *The Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) current information on the health consequences of smoking and (B) such recommendations for legislation as he may deem appropriate.*

(2) *The Federal Trade Commission shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate.*

CRIMINAL PENALTY

SEC. 6. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

INJUNCTION PROCEEDINGS

SEC. 7. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 8. Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

SEPARABILITY

SEC. 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TERMINATION OF PROVISIONS AFFECTING REGULATION OF ADVERTISING

SEC. 10. The provisions of this Act which affect the regulation of advertising shall terminate on July 1, 1969, but such termination shall not be construed as limiting, expanding, or otherwise affecting the jurisdiction or authority which the Federal Trade Commission or any other Federal agency had prior to the date of enactment of this Act.

EFFECTIVE DATE

Sec. 11. This Act shall take effect on January 1, 1966.
And the House agree to the same.

OREN HARRIS,
WALTER ROGERS,
LEO W. O'BRIEN,
HORACE R. KORNEGAY,
WILLIAM SPRINGER,
J. ARTHUR YOUNGER,
ANCHER NELSEN,

Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN PASTORE,
VANCE HARTKE,
HOWARD W. CANNON,
MAURINE B. NEUBERGER,
GALE MCGEE,
NORRIS COTTON,
THRUSTON B. MORTON,
HUGH SCOTT,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment was in the nature of a substitute for the Senate bill. The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. The major differences between the Senate bill and the House amendment thereto are set forth below, together with the action taken at the conference (except for incidental changes made necessary by reason of agreements reached by the conferees and minor and clarifying changes).

The House amendment made certain findings (sec. 2) and set forth a declaration of policy (sec. 3). The Senate bill had no comparable provisions. The conference substitute adopts the declaration of policy of the House bill.

The Senate bill and the House amendment contained different definitions of the term "cigarette." The definition used in the conference substitute is the definition of the term which appears in section 5702 of the Internal Revenue Code of 1954, as amended by section 808(a) of the Excise Tax Reduction Act of 1965 (Public Law 89-44).

The Senate bill and the House amendment had definitions of the term "United States" which differed only in form. The conference substitute adopts the House version.

The Senate bill did not contain a definition of "commerce." The House amendment did. The conference substitute contains the definition of "commerce" contained in the House amendment.

Under the Senate bill, the statement "Caution: Cigarette Smoking May Be Hazardous to Your Health" was required to be located on the front or back panel of every cigarette package and to appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package. The House amendment required that the statement appear on a side panel of the individual pack, in print contrasting to the background, in not less than 10-point type on a 12-point body. The House version had slightly differing requirements as to the type used in printing the statement on containers other than the individual pack. The conference substitute requires that the statement be located in a conspicuous place on every cigarette package and that it appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

Both the Senate bill and the House amendment provided that no statement with respect to smoking and health would be required in

the advertising of any cigarettes which were packaged in conformity with the provisions of the legislation. The Senate bill, however, provided that this prohibition would be effective only for the 3-year period beginning on the effective date of the legislation. The House version contained no such limitation of time. The conference substitute provides that the provisions of the legislation which affect the regulation of advertising shall terminate on July 1, 1969, but that such termination shall not be construed as limiting, expanding, or otherwise affecting the jurisdiction or authority which the Federal Trade Commission or any other Federal agency had prior to the date of enactment of this legislation.

It is the expectation of the conferees that before July 1, 1969, on the basis of all available information, including that contained in reports submitted, as required by this legislation, by the Secretary of Health, Education, and Welfare and the Federal Trade Commission, the Congress will reexamine the subject matter covered by this legislation.

The Senate bill and the House amendment contained differing language relating to the authority of the Federal Trade Commission with respect to false or misleading cigarette advertising. The conference substitute provides that except for the prohibitions applicable to cigarette advertising, nothing in this legislation shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertising.

The Senate bill would have required a report from the Federal Trade Commission (acting in cooperation with the Department of Health, Education, and Welfare) relating to certain matters. Such a report would be transmitted to the Congress not later than 18 months after the effective date of the legislation and annually thereafter. The House amendment had no provisions for such reports. The conference substitute provides that the Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than 18 months after the effective date of the legislation, and annually thereafter, concerning (1) current information on the health consequences of smoking, and (2) such recommendations for legislation as he may deem appropriate; and provides that the Federal Trade Commission shall transmit a report to the Congress at the same intervals concerning (1) the effectiveness of cigarette labeling, (2) current practices and methods of cigarette advertising and promotion, and (3) such recommendations for legislation as it may deem appropriate.

For a person violating the provisions of the legislation, the Senate bill provided a fine of not more than \$100,000, the House amendment provided a fine of not more than \$10,000. The conference substitute adopts the House version in this respect.

Under the Senate bill, its provisions would have taken effect 120 days after enactment. The House amendment would have become effective 180 days after enactment. The conference substitute provides that this legislation shall take effect on January 1, 1966.

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WALTER ROGERS,
LEO W. O'BRIEN,
HORACE R. KORNEGAY,
WILLIAM SPRINGER,
J. ARTHUR YOUNGER,
ANCHER NELSEN,
Managers on the Part of the House.

○

H. RES. 261

Resolved, That, upon the request of any Member or the Speaker or any other elected officer of the House of Representatives, or the chairman of any standing or select committee of the House, the Clerk of the House of Representatives shall furnish cards of identification as to their employment to such employees under the jurisdiction of each of the foregoing officers as such officer may designate. Each such card shall be signed by the officer concerned and shall not be valid for a longer period than the duration of a Congress. The expenses of carrying out this resolution shall be paid out of the contingent fund of the House of Representatives until otherwise provided by law.

With the following committee amendment:

Strike out all after the resolving clause and insert the following:

"That, upon the request of the Speaker, a Member, elected officer of the House of Representatives, or the chairman of any committee of the House, the Clerk of the House of Representatives shall furnish cards of identification to such employees under their jurisdiction as they may designate. Each such card shall be signed by the Speaker, Member, officer, or committee chairman concerned, and shall not be valid for a longer period than the duration of one session of a Congress."

The SPEAKER. The Chair recognizes the gentleman from Ohio [Mr. HAYS].

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield briefly to the gentleman from New York, the author of the resolution.

Mr. HORTON. Mr. Speaker, I rise to commend the distinguished gentleman from Ohio [Mr. HAYS] and to thank the Committee on House Administration and its Subcommittee on Printing for having brought H.R. 261 before us today. This is a measure I introduced on March 9 to provide the issuance of appropriate identification cards for those whom we employ as congressional staff members.

At the time of introduction, I called attention to the fact that at present the House provides no means of official identification for those who work in the offices of Members, are on the staffs of the various committees with certain exceptions, or are otherwise in an employment position attached to the House. It was, and is, my belief that such identification should be provided for purposes of security and also for the convenience of staff personnel in being able to instantly establish their official relation to the House and the business of their employers.

I am very pleased with the reaction this measure received. Many of our colleagues contacted me to express their support and, I understand, many of them also contacted members of the Committee on House Administration and Mr. HAY's Subcommittee on Printing to endorse the purpose of the resolution.

Of course, when I learned that the subcommittee had agreed to take up the resolution for official consideration, I was even further heartened. I know that its members gave many hours of thorough and thoughtful consideration to all areas applicable to this resolution.

Certainly, the amended form in which this measure now comes before us represents the work of the subcommittee in

deciding on a very practical mechanical means of handling the assignment of the identification cards sought by my resolution. I find that the controls both on issuance and return at the time an employee no longer is in a situation requiring an ID card are very effective and should impose no burden at all on those responsible for the assignment of this identification.

Mr. Speaker, it has been a distinct pleasure to work with the subcommittee and committee on this matter. I believe all of us are fortunate that these colleagues serve us in these important areas of House administration.

Again I commend the gentleman from Ohio for reporting this resolution.

If the gentleman will yield further, I should like to ask whether the card which is to be issued will have a photograph of the employee included?

Mr. HAYS. I say to the gentleman, that will be a matter to be determined between the clerk and the Committee on House Administration. There was some thought it would be difficult to have a photograph. That would cost more money, and there is considerable turnover of employees. However, this has not been finally adjudicated. It will be decided on the basis of what can be done the best, the cheapest, and in the most convenient manner.

We did amend the resolution to make the cards good for only one session, because we feel there is a danger they might get into the hands of unauthorized people, those who either are not employees or who are no longer employees of the Congress.

Mr. HORTON. I certainly want to indicate my agreement with the gentleman, as to having cards for only one session of Congress. I do have a card which was issued to the members of the Committee on Government Operations which does include a picture. I would hope that the committee, in its further consideration of this matter, would give due consideration to the use of photographs to identify the persons involved. I believe this would be helpful. It would be similar to the type of card we as Members of the House now have.

Mr. HAYS. I can assure the gentleman we will go into that situation. We will get copies, and look into the cost.

Mr. HORTON. I thank the gentleman.

(Mr. HORTON asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Iowa.

Mr. GROSS. Do I correctly understand that the amendment covers all employees of the Capitol?

Mr. HAYS. No. It covers employees specifically of the Speaker, a Member, or an elected officer of the House, or the chairman of any committee of the House. It does not cover all employees of the Capitol, only employees of the House of Representatives generally, and specifically the ones I have mentioned.

Mr. GROSS. I thank the gentleman.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. LONG of Maryland. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 165]

Addabbo	Fraser	Pool
Annunzio	Fulton, Pa.	Powell
Ashbrook	Fulton, Tenn.	Roberts
Ashley	Gibbons	Rostenkowski
Ashmore	Grabowski	Roybal
Battin	Griffin	Ryan
Belcher	Griffiths	St Germain
Bingham	Grover	Scheuer
Blatnik	Harsha	Schlesler
Bonner	Harvey, Ind.	Schweiker
Bow	Helstoski	Scott
Brown, Calif.	Hollifield	Shipley
Brown, Ohio	Holland	Sikes
Byrnes, Wis.	Johnson, Pa.	Skubitz
Clancy	Jones, Ala.	Teague, Tex.
Cramer	Keogh	Thomas
Dawson	King, N.Y.	Toll
Dent	Latta	Tupper
Dow	Lindsay	Watkins
Evins, Tenn.	Martin, Ala.	Watson
Farnsley	Martin, Mass.	Weltner
Farnum	Mathias	Willis
Flood	Mize	Wilson,
Fogarty	Morton	Charles H.
Foley	Passman	

The SPEAKER. On this rollcall 364 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair designates the Honorable CARL ALBERT to act as Speaker pro tempore tomorrow.

CORRECTION OF ROLL CALL

Mr. ERLÉN BORN. Mr. Speaker, in the CONGRESSIONAL RECORD of May 5, rollcall No. 94, I am recorded as not voting, and generally paired. I was present at that time and voted "yea," and I ask unanimous consent that the permanent RECORD be corrected accordingly.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a conference report on S. 559, the Senate version of H.R. 3014.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 586)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That this Act may be cited as the 'Federal Cigarette Labeling and Advertising Act'.

"DECLARATION OF POLICY

"SEC. 2. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

"(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

"(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

"DEFINITIONS

"SEC. 3. As used in this Act—

"(1) The term 'cigarette' means—

"(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

"(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

"(2) The term 'commerce' means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

"(3) The term 'United States', when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island.

"(4) The term 'package' means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

"(5) The term 'person' means an individual, partnership, corporation, or any other business or legal entity.

"(6) The term 'sale or distribution' includes sampling or any other distribution not for sale.

"LABELING

"SEC. 4. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement:

"'Caution: Cigarette Smoking May Be Hazardous to Your Health.'

Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by topography, layout, or color with other printed matter on the package.

"PREEMPTION

"SEC. 5. (a) No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

"(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

"(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement.

"(d) (1) The Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) current information on the health consequences of smoking and (B) such recommendations for legislation as he may deem appropriate.

"(2) The Federal Trade Commission shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate.

"CRIMINAL PENALTY

"SEC. 6. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

"INJUNCTION PROCEEDINGS

"SEC. 7. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"CIGARETTES FOR EXPORT

"SEC. 8. Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

"SEPARABILITY

"SEC. 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

"TERMINATION OF PROVISIONS AFFECTING REGULATION OF ADVERTISING

"SEC. 10. The provisions of this Act which affect the regulation of advertising shall terminate on July 1, 1969, but such termination shall not be construed as limiting, expanding, or otherwise affecting the jurisdiction or authority which the Federal Trade

Commission or any other Federal agency had prior to the date of enactment of this Act.

"EFFECTIVE DATE

"SEC. 11. This Act shall take effect on January 1, 1966."

And the House agree to the same.

OREN HARRIS,
WALTER ROGERS,
LEO W. O'BRIEN,
HORACE R. KORNEGAY,
WILLIAM SPRINGER,
J. ARTHUR YOUNGER,
ANCHER NELSEN,

Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN PASTORE,
VANCE HARTKE,
HOWARD W. CANNON,
MAURINE B. NEUBERGER,
GALE W. MCGEE,
NORRIS COTTON,
THRUSTON B. MORTON,
HUGH SCOTT,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment was in the nature of a substitute for the Senate bill. The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. The major differences between the Senate bill and the House amendment thereto are set forth below, together with the action taken at the conference (except for incidental changes made necessary by reason of agreements reached by the conferees and minor and clarifying changes).

The House amendment made certain findings (sec. 2) and set forth a declaration of policy (sec. 3). The Senate bill had no comparable provisions. The conference substitute adopts the declaration of policy of the House bill.

The Senate bill and the House amendment contained different definitions of the term "cigarette." The definition used in the conference substitute is the definition of the term which appears in section 5702 of the Internal Revenue Code of 1954, as amended by section 808(a) of the Excise Tax Reduction Act of 1965 (Public Law 89-44).

The Senate bill and the House amendment had definitions of the term "United States" which differed only in form. The conference substitute adopts the House version.

The Senate bill did not contain a definition of "commerce." The House amendment did. The conference substitute contains the definition of "commerce" contained in the House amendment.

Under the Senate bill, the statement "Caution: Cigarette Smoking May Be Hazardous to Your Health." was required to be located on the front or back panel of every cigarette package and to appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package. The House amendment required that the statement appear on a side panel of the individual pack, in print contrasting to the background, in not less than 10-point type on a 12-point body. The House version had slightly differing requirements as to the type used in printing the statement on containers other than the individual pack. The conference substitute requires that the statement be located in a conspicuous place on every cigarette package and that it appear in conspicuous and legible type in contrast by

typography, layout, or color with other printed matter on the package.

Both the Senate bill and the House amendment provided that no statement with respect to smoking and health would be required in the advertising of any cigarettes which were packaged in conformity with the provisions of the legislation. The Senate bill, however, provided that this prohibition would be effective only for the 3-year period beginning on the effective date of the legislation. The House version contained no such limitation of time. The conference substitute provides that the provisions of the legislation which affect the regulation of advertising shall terminate on July 1, 1969, but that such termination shall not be construed as limiting, expanding, or otherwise affecting the jurisdiction or authority which the Federal Trade Commission or any other Federal agency had prior to the date of enactment of this legislation.

It is the expectation of the conferees that before July 1, 1969, on the basis of all available information, including that contained in reports submitted, as required by this legislation, by the Secretary of Health, Education, and Welfare and the Federal Trade Commission, the Congress will reexamine the subject matter covered by this legislation.

The Senate bill and the House amendment contained differing language relating to the authority of the Federal Trade Commission with respect to false or misleading cigarette advertising. The conference substitute provides that except for the prohibitions applicable to cigarette advertising, nothing in this legislation shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertising.

The Senate bill would have required a report from the Federal Trade Commission (acting in cooperation with the Department of Health, Education, and Welfare) relating

to certain matters. Such a report would be transmitted to the Congress not later than 18 months after the effective date of the legislation and annually thereafter. The House amendment had no provisions for such reports. The conference substitute provides that the Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than 18 months after the effective date of the legislation, and annually thereafter, concerning (1) current information on the health consequences of smoking, and (2) such recommendations for legislation as he may deem appropriate; and provides that the Federal Trade Commission shall transmit a report to the Congress at the same intervals concerning (1) the effectiveness of cigarette labeling, (2) current practices and methods of cigarette advertising and promotion, and (3) such recommendations for legislation as it may deem appropriate.

For a person violating the provisions of the legislation, the Senate bill provided a fine of not more than \$100,000, the House amendment provided a fine of not more than \$10,000. The conference substitute adopts the House version in this respect.

Under the Senate bill, its provisions would have taken effect 120 days after enactment. The House amendment would have become effective 180 days after enactment. The conference substitute provides that this legislation shall take effect on January 1, 1966.

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WILLIAM SPRINGER,
J. ARTHUR YOUNGER,
ANCHER NELSEN,

Managers on the Part of the House.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1966

Mr. NATCHER. Mr. Speaker, I call up the conference report on the bill (H.R. 6453) making appropriations for

the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1966, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of June 30, 1965.)

(Mr. NATCHER asked and was given permission to revise and extend his remarks and include a tabulation.)

Mr. NATCHER. Mr. Speaker, the House considered budget estimates totaling \$387,467,800 for the District of Columbia for fiscal year 1966 and approved the sum of \$356,300,500. The bill provided for a Federal payment of \$41 million which was \$9 million below the budget estimate.

The Senate considered estimates totaling \$389,346,800 and approved a bill containing the sum of \$364,358,347, and the Federal payment approved by the other body amounted to \$46 million.

The Federal payment approved in conference and now recommended to the House is \$43 million. The total amount provided for in the conference report for the District of Columbia for fiscal year 1966 is \$360,228,500. This is \$4,129,847 below the amount approved in the Senate bill and \$3,928,000 more than the amount approved in the House bill. At this point in the RECORD I will insert a tabulation showing the various stages of the bill by appropriations:

District of Columbia appropriation bill, 1966 (H.R. 6543)

Item	Appropriations, 1965	Budget estimates, 1966	Passed House	Passed Senate	Conference action	Conference action compared with—			
						Appropriations, 1965	Budget estimates, 1966	House	Senate
FEDERAL PAYMENT TO DISTRICT OF COLUMBIA									
General fund	\$37,500,000	\$50,000,000	\$41,000,000	\$46,000,000	\$43,000,000	+\$5,500,000	-\$7,000,000	+\$2,000,000	-\$3,000,000
Water fund	2,047,000	¹ 1,973,000	1,973,000	1,973,000	1,973,000	-74,000			
Sanitary sewage works fund	1,173,000	² 1,149,000	1,149,000	1,149,000	1,149,000	-24,000			
Total, Federal payment to District of Columbia	40,720,000	53,122,000	44,122,000	49,122,000	46,122,000	+5,402,000	-7,000,000	+2,000,000	-3,000,000
OPERATING EXPENSES									
General operating expenses	19,391,900	³ 21,326,000	20,323,000	20,112,000	20,112,000	+720,100	-1,214,000	-211,000	
Public safety	73,707,800	⁴ 79,462,600	76,998,000	78,663,000	78,663,000	+4,955,200	-799,600	+1,665,000	
Education	71,755,300	⁵ 77,984,000	74,740,000	75,953,900	75,457,600	+3,702,300	-2,526,400	+717,600	-496,300
Parks and recreation	10,038,200	11,087,000	10,555,000	10,709,500	10,703,700	+665,500	-383,300	+148,700	-5,800
Health and welfare	75,964,500	81,319,000	79,485,000	80,106,247	79,813,800	+3,849,300	-1,505,200	+328,800	-292,447
Highways and traffic	13,628,000	14,013,000	13,989,000	13,989,000	13,989,000	+361,000	-24,000		
Sanitary engineering	22,005,900	⁶ 22,974,000	22,498,000	22,498,000	22,498,000	+492,100	-476,000		
Metropolitan Police (additional municipal services, inaugural ceremonies)	283,000					-283,000			
Metropolitan Police (additional municipal services, Imperial Shrine Convention)		221,200	221,200	221,200	221,200	+221,200			
Personal services, wage-board employees	1,118,200	⁷ 1,279,000	1,279,000	1,279,000	1,279,000	+160,800			
Settlement of claims and suits	14,028					-14,028			
Total, operating expenses	287,906,828	309,665,800	300,088,200	303,531,847	302,737,300	+14,830,472	-6,928,500	+2,649,100	-794,547
REPAYMENT OF LOANS AND INTEREST									
Reimbursement to the United States	5,364,000	5,690,400	5,690,400	5,690,400	5,690,400	+326,400			
CAPITAL OUTLAY									
Capital outlay	59,633,000	⁸ 73,990,600	50,521,900	55,131,100	51,800,800	-7,832,200	-22,189,800	+1,278,900	-3,330,300
Grand total, District of Columbia funds	⁹ 352,903,828	389,346,800	356,300,500	364,358,347	360,228,500	+7,324,672	-29,118,300	+3,928,000	-4,129,847

Footnotes on following page.

¹ Reflects decrease of \$227,000 submitted in H. Doc. No. 114.

² Reflects decrease of \$186,000 submitted in H. Doc. No. 114.

³ Includes increase of \$5,000 submitted in H. Doc. No. 114.

⁴ Includes increase of \$27,000 submitted in H. Doc. No. 114 and \$1,879,000 in S. Doc. No. 23.

⁵ Includes increase of \$305,000 submitted in H. Doc. No. 114.

⁶ Includes increase of \$22,000 submitted in H. Doc. No. 114.

⁷ Submitted in H. Doc. No. 114.

⁸ Reflects decrease of \$881,000 submitted in H. Doc. No. 114.

⁹ Includes \$11,430,500 in second supplemental bill, Public Law 89-16.

Serious crime in the District climbed to new levels during the fiscal year 1965. Our committee believes that the people in Washington and the visitors in our Capital City are entitled to a system of law enforcement which will insure them the right to transact their business and traverse the streets at any time without fear of assault. As pointed out on many occasions, our committee believes that the Police Department has the right to expect full cooperation from the citizens of our Capital City and especially from the courts. When criminal charges are preferred and clearly established, adequate sentences should follow. Any deviation from this process makes a mockery of law enforcement and justice.

We recommend an increase of \$1,665,000 for additional police protection. This amount will be used to pay officers for work on their days off and for additional scout cars, additional crossing guards, and an expansion of the footman radio system. As is stated in the statement of the managers on the part of the House with the concurrence of the Senate conferees, the additional funds provided to finance a sixth day of work is of a temporary and emergency nature.

The highway system in the District of Columbia, with emphasis on the interstate system, is one of the major long-established activities of the District of Columbia. Any effort to bring important highway projects in the District to a complete halt is a serious mistake.

In order to meet the tremendous day-to-day growth of traffic in Washington we must carry our highway programs along with any and all proposals concerning a rapid transit system. This conference report clearly shows the attitude of our committee in this matter and emphatically states that we disagree with the language contained in the Senate report.

As you know, Mr. Speaker, on page 4 of the conference report you find the following:

The managers on the part of the House are not in agreement with the statement in the Senate report which reads as follows:

"Accordingly, the committee directs that all future budget estimates for the District of Columbia highway program be presented on the basis only of prior authorization by the respective District legislative committees."

This statement is not to be construed to mean that the committee is opposed to proper authorization for the various projects, but we are of the opinion there is already sufficient general authority for the highway program and we feel that future budget estimates should be submitted in accordance with current procedures.

The conference action allows an increase of \$717,553 for 22 additional teachers; 28 librarians; 23 counselors and several related positions, including an expansion of the driver training program with the cost to be paid from fees for learners' permits.

This conference report provides for funds for the continued operation of the

John F. Kennedy Playground, but does not include a new site for the Shaw Junior High School. We also recommend funds for a recreation center for the mentally retarded.

In conference, we agreed to an increase in the student nurse program at D.C. General Hospital and allowed the full request for the Children's Hospital.

This conference report, in addition, provides for five additional school construction projects.

At this time, Mr. Speaker, I yield to my distinguished friend, the gentleman from Wisconsin, the ranking minority member of this committee, and I would like to say to the Members of the House, one of the outstanding Members of the House.

Mr. DAVIS of Wisconsin. Mr. Speaker, I thank the chairman of our subcommittee for yielding to me so that I might say just a few words in connection with this conference report.

I think that every Member of this House should be grateful to the gentleman from Kentucky, for he has done his job as the chairman of the conferees in a manner that we would want every group of conferees that goes from this House to meet with Members of the other body to perform.

I know that sometimes we receive criticism of the competence and the ability of the Appropriations Committee to perform its functions. But I submit that those who on yesterday committed us to about \$8 billion, with the Appropriations Committee finding itself in future years completely unable to do anything about it, should be the last to criticize the procedure of the Appropriations Committee of this House.

I am not completely happy with this conference report any more, I am sure, than the chairman, the gentleman from Kentucky, is completely happy about it. But we were able to control some of the flagrant violations of responsibility which had crept into this appropriations measure in the course of its travail.

Mr. Speaker, I believe that Members of this House can congratulate themselves and certainly owe a great deal to Members such as the gentleman from Kentucky [Mr. NATCHER] for the restraint which individual Members of this House exercised and the restraint which members of the Committee on Appropriations in key positions such as the gentleman from Kentucky exercised with respect to this bill.

Mr. Speaker, there are two items that are not in this conference report that should be in it, on the grounds of need and on the grounds of justice.

One of them is the Shaw Junior High School. The other is the planning funds for the Fort Reno Recreation Center. However, the conferees from our side were too proud of our responsibility to this House, and too proud of a sense of responsibility that ought to be exercised, to insist that these funds be included.

Mr. Speaker, the Shaw Junior High School could not possibly be included and can never be included so long as re-

sponsible men in this body will stand against the kind of tactics that deprive the District of Columbia of the site which was already selected for the erection of Shaw Junior High School.

Mr. Speaker, until we find some comparable sense of responsibility in other places with respect to items of appropriations of this committee, I am sure men like the gentleman from Kentucky and others who serve with him as conferees will never stultify themselves to the point of permitting this kind of a tainted appropriation, tainted by considerations other than its merit to be included.

With respect to the Fort Reno planning funds here, again, the money should be here included, but the price in terms of pride and responsibility would have been too great to permit the funds to be included in the funds covered in this conference report.

The gentleman from Kentucky [Mr. NATCHER] mentioned to the Members of the House the additional funds that are in here for the Police Department, for public safety, here in the District of Columbia.

In my opinion these funds will not be completely used. Some Members can take some gratification in that fact. But I believe that a matter of more grave concern in connection with it is that I fear to some extent at least we have attempted to substitute money, to substitute dollars, for a more thoroughgoing concern with the overall matter of crime prevention and detection here within the District of Columbia.

Mr. Speaker, I believe we have done everything that men can do sitting on this committee to provide for the public safety of the District of Columbia. However, I do suggest that there are other things which need to be done rather than simply the appropriation of money.

There are some ridiculous things contained in this bill. They are not scandalously expensive, thank goodness, but they are simply just plain unnecessary.

Mr. Speaker, I believe it is fair to say that the only justification for some of the smaller items that are included in this conference report happens to be the identity of the author of the amendment over at the other end of this Capitol.

We did succeed in cutting out this unsound practice of attempting to set salaries for individuals, which the other body had included. We did succeed in nullifying that practice insofar as this bill is concerned.

In my opinion, in spite of the weaknesses that may be in it, overall the House conferees have done the kind of job you would want us to do. In the 5-hour conference session which took place a couple of days ago we did much better than we could do if there was to be a second or third session, or a fourth round of negotiations. So I am here to follow the chairman of the House conferees, the gentleman from Kentucky [Mr. NATCHER] in recommending this conference report to you, and in sustain-

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
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HIGHLIGHTS: Senate committee reported agricultural appropriation bill. Senate committee reported bill exempting REA coops from FPC jurisdiction. Senate agreed to conference report on cigarette labeling bill. Sen. Smith inserted letters critical of surplus food distribution program.

SENATE

1. AGRICULTURAL APPROPRIATION BILL, 1966. The Appropriations Committee reported with amendments this bill, H. R. 8370 (S. Rept. 423)(p. 14998). Attached to this Digest is the committee report, which includes a statement of committee actions. Sen. Holland submitted amendments intended to be proposed to this bill (p. 15001).
2. LEGISLATIVE BRANCH APPROPRIATION BILL, 1966. The Appropriations Committee reported with amendments this bill, H. R. 8775 (S. Rept. 424). p. 14998
3. ELECTRIFICATION. The Commerce Committee reported with amendment (on July 1) S. 1459, to exempt certain cooperatives engaged in rural electrification from Federal Power Commission jurisdiction (S. Rept. 420). p. 14997
Received from REA reports on the approval of loans to the Northern Michigan Electric Cooperative, Inc., Boyne City, Mich., and to the Wolverine Electric Cooperative, Inc., Big Rapids, Mich. p. 14998

4. CIGARETTE LABELING. Agreed to the conference report on S. 559, the cigarette labeling bill. pp. 15032-4
5. RESEARCH. The Commerce Committee reported with amendment (on July 1) S. 949, to promote the economic growth by supporting State and regional centers to place the findings of science usefully in the hands of American enterprise (S. Rept. 421). p. 14997
6. HEALTH. Debated H. R. 6675, to provide a hospital insurance program for the aged under the Social Security Act with a supplementary health benefits program and an expanded program of medical assistance, to increase benefits under the old-age, survivors, and disability insurance system, etc. pp. 15037-69
7. SURPLUS FOODS. Sen. Smith inserted letters from officials of Freeport, Maine, raising "some very serious questions about the administration of the donated surplus commodities program of the Department of Agriculture." p. 15034
8. HOUSING LOANS. H. R. 7984, the housing and urban development bill, was placed on the Senate calendar. p. 14997
9. FORESTRY. Received from this Department a proposed bill to authorize the Secretary of Agriculture, in exchanges under land exchange authority, to accept and use cash to equalize the value of the Federal lands offered; to Agriculture and Forestry Committee. p. 14998
10. PATENTS. Sen. Long, La., inserted an editorial in support of his position that patent rights to discoveries made as a result of taxpayer-financed research should be held by the Government, rather than by private companies. p. 15010
11. ECONOMICS. Sen. Douglas inserted an article, "U. S. Blueprint of Economic Growth: 1970 Forecast: \$10 Billion Surplus." pp. 15014-5
12. FOREIGN AID. Sen. McGee inserted an article reviewing failures in the Russian foreign aid program. p. 15015

HOUSE

13. DISASTER RELIEF. A subcommittee of the Banking and Currency Committee voted to report to the full committee H. R. 7397, to authorize a study of methods of helping to provide financial assistance to victims of future natural disasters p. D613
14. AGING. Concurred in Senate amendments to H. R. 3708, to help older persons through grants to States for community planning and services and for training, research, etc., through HEW (p. 15072). This bill will now be sent to the President.
15. TRANSPORTATION. Rep. Hicks spoke in support of proposed legislation to insure the adequacy of the national railroad freight car supply. p. 15102
16. POVERTY. Rep. Harsha stated the poverty act "has had the effect of holding out additional hope to poverty-stricken people, but the promises of the benefits that they will reap from this legislation are as empty as last year's bird's nest." pp. 15102-3
17. ECONOMICS. Reps. Thomson, Wisc., and Curtis expressed doubt about the economic prosperity of the Nation and inserted supporting articles. pp. 15103, 15108-11

Mr. COOPER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. GORE. I yield 1 minute to the Senator from Kentucky.

Mr. COOPER. I do not wish to haggle over the meaning of the amendment, but the Senator from Tennessee asked one question which I think has not been answered.

We want to establish this body, because if we did not think it necessary and did not believe that at some point the Cabinet might not declare the President disabled, when he actually was disabled, there would not be any point in wishing to establish a second body.

The Senator from Tennessee asked the question: Assuming that Congress establishes this body, and Congress says it has exclusive jurisdiction—

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. Who yields time?

Mr. BAYH. I shall be glad to yield time.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. GORE. I have only 3 minutes remaining. I wanted to close; however, I ask unanimous consent that the Senator from Kentucky have 5 minutes to discuss this question.

Mr. COOPER. I do not need 5 minutes.

Mr. GORE. I yield 1 minute of my remaining time to the Senator from Kentucky.

Mr. COOPER. The Senator from Tennessee made the point that since this is a constitutional amendment, Congress cannot take away the power given to the Cabinet by legislative enactment. He asks: If Congress should establish this body and give it exclusivity, would that have any force against the amendment itself, which provides that the power shall lie either in the Cabinet or in the body itself?

Mr. JAVITS. It is my considered judgment—and I am the one who debated this point—that Congress, having the power to establish the body, can give it exclusivity which will stand up as a matter of constitutional law.

The PRESIDING OFFICER. The time yielded by the Senator from Tennessee to the Senator from Kentucky has expired. The Senator from Tennessee has 2 minutes remaining.

Mr. BAYH. We have made the record abundantly clear.

Mr. GORE. The distinguished Senator from Kentucky has just said that a question I raised has not been answered.

The distinguished Senator from Ohio asked if this question was raised in conference. The answer was that it was not. It was not raised on the floor of either House.

Mr. BAYH. That was not the question.

Mr. GORE. The Senator from Ohio asked a question, about use of the disjunctive.

I say that the proposed amendment creates grave doubt. I should like to read from the record of the debate of last Wednesday, June 30:

Mr. GORE. Do I correctly understand the able Senator to say that Congress could, immediately upon adoption of this constitutional amendment, provide by law for such a body as herein specified and that, then, either a majority of this body created by law or a majority of the Cabinet could perform this function?

Mr. BAYH. No. The Cabinet has the primary responsibility. If it is replaced by Congress with another body, the Cabinet loses the responsibility, and it rests solely in the other body.

Mr. GORE. But the amendment does not so provide.

Mr. BAYH. Yes, it does. It states—

Mr. GORE. The word is "or."

Mr. BAYH. It says "or." It does not say "both." "Or such other body as Congress may by law prescribe."

I suggest, Mr. President, that we have time to correct this doubt. Let us return the report to conference; let it be clarified.

The PRESIDING OFFICER (Mr. HARRIS in the chair). All time has expired. The question is on agreeing to the conference report. [Putting the question.]

Mr. GORE. The majority leader announced that there would be a yeas-and-nays vote.

Mr. BAYH. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from North Carolina will state it.

Mr. ERVIN. What is the question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to the conference report on Senate Joint Resolution 1.

Mr. DIRKSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. DIRKSEN. Do I correctly understand that notwithstanding that the vote is on the conference report, a two-thirds majority is required for its adoption?

The PRESIDING OFFICER. The Senator from Illinois is correct. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Nevada [Mr. BIBLE], the Senator from Nevada [Mr. CANNON], the Senator from Louisiana [Mr. ELLENDER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from North Carolina [Mr. JORDAN], the Senator from Missouri [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Montana [Mr. MANSFIELD], the Senator from New Mexico [Mr. MONTROYA], the Senator from Oregon [Mr. MORSE], the Senator from West Virginia [Mr. RANDOLPH], and the Senator from Oregon [Mrs. NEUBERGER] are absent on official business.

I also announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Virginia [Mr. BYRD], the Senator from Mississippi [Mr. EASTLAND], and the Senator from Indiana [Mr. HARTKE] are necessarily absent.

I further announce that, if present and

voting, the Senator from Nevada [Mr. BIBLE], the Senator from North Carolina [Mr. JORDAN], the Senator from Oregon [Mr. MORSE], and the Senator from West Virginia [Mr. RANDOLPH] would each vote "yea."

On this vote, the Senator from Mississippi [Mr. EASTLAND] and the Senator from Nebraska [Mr. HRUSKA] are paired with the Senator from New Mexico [Mr. ANDERSON]. If present and voting, the Senator from Mississippi would vote "yea," the Senator from Nebraska would vote "yea," and the Senator from New Mexico would vote "nay."

On this vote, the Senator from Nevada [Mr. CANNON] and the Senator from Louisiana [Mr. ELLENDER] are paired with the Senator from Washington [Mr. MAGNUSON]. If present and voting, the Senator from Nevada would vote "yea," and the Senator from Louisiana would vote "yea," and the Senator from Washington would vote "nay."

On this vote, the Senator from Indiana [Mr. HARTKE] and the Senator from Montana [Mr. MANSFIELD] are paired with the Senator from New Mexico [Mr. MONTROYA]. If present and voting, the Senator from Indiana would vote "yea," the Senator from Montana would vote "yea," and the Senator from New Mexico would vote "nay."

Mr. KUCHEL. I announce that the Senator from Vermont [Mr. AIKEN], the Senator from Colorado [Mr. DOMINICK], the Senator from Nebraska [Mr. HRUSKA], and the Senator from California [Mr. MURPHY] are absent on official business.

The Senator from Utah [Mr. BENNETT], the Senator from Kansas [Mr. CARLSON], the Senator from New Hampshire [Mr. COTTON], the Senator from Hawaii [Mr. FONG], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Vermont [Mr. AIKEN], the Senator from Utah [Mr. BENNETT], the Senator from Colorado [Mr. DOMINICK], the Senator from Hawaii [Mr. FONG], the Senator from California [Mr. MURPHY], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from Nebraska [Mr. HRUSKA] and the Senator from Mississippi [Mr. EASTLAND] are paired with the Senator from New Mexico [Mr. ANDERSON]. If present and voting, the Senator from Nebraska and the Senator from Mississippi would each vote "yea," and the Senator from New Mexico would vote "nay."

The yeas and nays resulted—yeas 68, nays 5, as follows:

[No. 164 Leg.]

YEAS—68

Allott	Cooper	Hayden
Bass	Curtis	Hickenlooper
Bayh	Dirksen	Hill
Boggs	Dodd	Holland
Brewster	Douglas	Inouye
Burdick	Ervin	Jackson
Byrd, W. Va.	Fannin	Javits
Case	Gruening	Jordan, Idaho
Church	Harris	Kennedy, Mass.
Clark	Hart	Kennedy, N.Y.

Kuchel	Muskie	Smith
Long, La.	Nelson	Sparkman
McClellan	Pastore	Stennis
McGee	Pearson	Symington
McGovern	Pell	Talmadge
McIntyre	Prouty	Thurmond
McNamara	Proxmire	Tydings
Metcalf	Ribicoff	Williams, N.J.
Miller	Robertson	Williams, Del.
Monroney	Russell, S.C.	Yarborough
Morton	Russell, Ga.	Young, N. Dak.
Moss	Scott	Young, Ohio
Mundt	Smathers	

NAYS—5

Gore	McCarthy	Tower
Lausche	Mondale	

NOT VOTING—27

Aiken	Dominick	Magnuson
Anderson	Eastland	Mansfield
Bartlett	Ellender	Montoya
Bennett	Fong	Morse
Bible	Fulbright	Murphy
Byrd, Va.	Hartke	Neuberger
Cannon	Hruska	Randolph
Carlson	Jordan, N.C.	Saltonstall
Cotton	Long, Mo.	Simpson

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays 5. Two-thirds of the Senators present and voting having voted in the affirmative, the conference report is agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KUCHEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HAGUE PROTOCOL TO WARSAW CONVENTION IS DETRIMENTAL TO INTERNATIONAL AIR PASSENGERS' RIGHTS AND SHOULD NOT BE RATIFIED

Mr. YARBOROUGH. Mr. President, I greatly regret to see now pending on our Executive Calendar the question of ratification of the Hague Protocol. This protocol has been pending before the Senate since the 86th Congress' 1st session, without being reported to the Senate by the Foreign Relations Committee for ratification or rejection, and I think the reasons are very strong that a little further delay will be beneficial for protecting the rights of American air passengers on international flights.

Although under American common law a person injured by another's negligence can recover his full damages, this Hague Protocol limits an international air carrier's responsibility to its injured passengers to \$16,600. Under the existing Warsaw Convention, although there is a stated limit of \$8,300, testimony before the Senate Foreign Relations Committee indicates that most cases can be settled for more than the \$16,600 limits of Hague. And the Hague Protocol closes the doors by which injured passengers can avoid being limited in the damages they receive.

No one contends that \$16,600 is an adequate amount to compensate for serious injuries or death to an air passenger. The State Department recommends ratification of this Hague Protocol only if companion legislation is enacted requiring an additional \$50,000 in accident insurance on each international air passenger on a U.S. airline. That legislation is pending before the Senate Commerce Committee as S. 2032, but who can predict when or if it will be enacted?

In summary, an American injured on an international flight now can probably receive more than \$16,600 in settlement of his claim. If S. 2032, is enacted, he can be assured of \$50,000 in an accident policy. But if we should ratify the Hague Protocol now without waiting for that legislation, American air passengers will be limited to \$16,600 or less in their claims for death or injury.

The New York Times has recently spoken out against the folly of ratifying the Hague Protocol in a well-reasoned editorial. I quote from their conclusion:

The glaring shortcomings in the Hague Protocol and in the insurance plan to strengthen it argue for their rejection even if it means the end of the Warsaw Convention. The treaty had justification in the early days of air transport, when airlines could have been put out of business by sizable damage suits. It is unjustified now that airlines are financially sound and furnish uniform documentation in normal course; yet the administration is seeking to reaffirm allegiance to its outdated and miserly provisions for passenger protection.

I ask unanimous consent that the complete text of the editorial, "Protection in the Air," from the June 16, 1965, New York Times be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROTECTION IN THE AIR

Passengers on international airline flights involved in an accident have since 1934 been covered by the Warsaw Convention, which provides a unified liability code and uniform documentation on tickets and cargo for international air carriers. Under its antiquated provisions liability for loss of life or injury is limited to only \$8,300, except where willful misconduct is proved. Recognizing that this amount is wholly inadequate, the signatories have proposed an amendment, called the Hague Protocol, to double airline liability to \$16,600—which still would be wholly inadequate.

But the State Department is pressing for approval of the Hague Protocol along with a plan for compulsory accident insurance that would furnish passengers on American airliners up to \$50,000 in case of injury or death. Leonard C. Mceker, the State Department's legal adviser, warned the Senate Committee on Foreign Relations that if it rejects the Hague Protocol "we would have to give serious consideration to denunciation of the Warsaw Convention," and if the compulsory insurance scheme is not approved "we would then also have to consider whether to withdraw from the Warsaw Convention."

Even with the insurance benefit added to the Hague Protocol's proposed ceiling, airline passengers will be shortchanged. Personal injury insurance in the United States provides compensation proportionate to the injury sustained, so that the family of an executive who dies in the prime of life usually gets more than the survivors of a retired person. But the administration's scheme would substitute a fixed amount, which is contrary to American principle and unfair in practice, and would not guarantee protection to Americans traveling on foreign airliners. Moreover, the Hague Protocol introduces language so rigid that it would become vastly more difficult for passengers—or their estates—to recover damages beyond the \$16,600 limit.

The glaring shortcomings in the Hague Protocol and in the insurance plan to strengthen it argue for their rejection even if it means the end of the Warsaw Convention. The treaty had justification in the early days of air transport, when airlines could have been put out of business by size-

able damage suits. It is unjustified now that airlines are financially sound and furnish uniform documentation in normal course; yet the administration is seeking to reaffirm allegiance to its outdated and miserly provisions for passenger protection.

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of July 1, 1965, p. 14952, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. McGEE. I am glad to yield.

Mr. CLARK. I would like to have the Senator from Wyoming give us a brief explanation of what the conferees did about the cigarette problem. There were a number of us in the Senate who supported the position of the Senator from Oregon, who, unfortunately, cannot be present this afternoon, and who are very much opposed to the provision that for 3 years the Congress undertake to prohibit the Federal Trade Commission from issuing regulations with respect to the advertising of cigarettes. We were defeated, to be sure—I think unwisely—but that is the way it goes.

I should like to know just what is in the conference report.

Mr. McGEE. The conferees agreed on a moratorium for 3½ years from the effective date. The conference report was a unanimous report. The Senate version of the bill generally prevails.

Mr. CLARK. Will the Senator yield further?

Mr. McGEE. I yield.

Mr. CLARK. It is my understanding, as a practical matter, that the conference report which the Senator from Wyoming brings before the Senate is in substance the Senate bill, except as to the time during which the Federal Trade Commission is prohibited from doing anything to prevent what seem to me to be the iniquitous practices in the advertising of the cigarette industry, which, however, the industry does not admit to engaging in. It is not true that the moratorium is a victory for Madison Avenue which will permit it to do what it wishes in this field for 3½ years?

Mr. McGEE. I would say only that we agreed to a 3½-year moratorium, and would not care to add the embellishments which the Senator has seen fit to do.

Mr. CLARK. Am I correct in stating that in the House version of the bill the Federal Trade Commission would have

been prohibited forever from stopping such advertising?

Mr. McGEE. Yes.

Mr. CLARK. So to that extent the Senator from Oregon and other Senators who did not wish to have any restrictions placed on regulations, which it seemed to us would have been wise for the Federal Trade Commission to issue, may be said to have won a limited victory over the other body?

Mr. McGEE. A partial victory would be a correct statement.

Mr. CLARK. I should merely like here to call attention to what the cigarette lobby has done to the Congress of the United States. I deplore the action of the Senate—even more that of the House. Having voted against the bill in the first instance, because I thought no bill was better than a bill like this which ties the hands of the regulatory body which this Congress wisely set up to deal with matters of this kind, I shall not ask for a yea-and-nay vote. However, I want the RECORD to show that having voted originally against the bill because I thought no bill was better than a bill which so tied the hands of the Federal Trade Commission to issue regulations on this matter, I shall vote against the report.

Mr. McGEE. The Senator is aware, is he not, that the warning must be on all cigarette packages by January 1, 1966.

Mr. CLARK. Yes; it will be on the cigarette package. There is some question as to how prominently it will be displayed. But the place where cigarette smoking is promoted, where young people are encouraged to take up the habit which may result in their dying of lung cancer, is in the big, full page advertisements of the well-known magazines, where all kinds of attractive scenes are portrayed: boy meets girl, girl meets cigarette, boy meets cigarette, girls and boys smoke cigarettes and everyone gets lung cancer.

I thank my friend for yielding to me.

Mr. MORTON. Mr. President, the record, I believe, must be made clear that the bill in no way restricts the power of the Federal Trade Commission. It still has its full power under the Organic Act concerning false and deceptive advertising. I do not know of any other product that has not been proved to contain some poison, such as certain detergents, cleansers, and so on, that has gone as far as the cigarette product in having the warning, "Cigarette smoking may be hazardous to health," placed on a package of cigarettes. The cigarette industry does not like this, naturally, but Congress did it, and I voted for it. I believe that it is a good thing to do, but at the same time I do not believe this is a Madison Avenue victory or the victory of any lobbyist. The cigarette industry would have preferred to have had no bill.

Mr. CLARK. Will the Senator from Wyoming yield to me, in order that I may ask a question of the Senator from Kentucky?

Mr. McGEE. I yield.

Mr. CLARK. Will the Senator from Kentucky explain to me what he means when he says—as I understand it, in reply to what the Senator from Wyoming said—that the bill does not in any

way diminish the powers of the Federal Trade Commission?

Mr. MORTON. It does not diminish the powers of the Federal Trade Commission that I feel belong to the Federal Trade Commission. The senior Senator from Kentucky [Mr. COOPER] made this statement a judicial argument before the committee, in showing that the Commission had far exceeded the powers Congress had given it, when it issued the order that this regulation would go into effect on July 1.

Mr. CLARK. I understood the Senator from Kentucky to state that the Federal Trade Commission never had authority to issue any regulations in respect to advertising; is that not correct?

Mr. MORTON. No; it is not correct. I say they have the authority under the bill, and they have the authority now, to issue all kinds of regulations and to take action against any false and misleading advertising.

Mr. CLARK. If the Senator will yield further, do I correctly understand my friend to say that the Federal Trade Commission could, tomorrow, prevent the advertising of cigarettes which did not include a statement in the advertising similar to the warning on the cigarette package, that cigarette smoking may be deleterious to health?

Mr. MORTON. The Federal Trade Commission has never had authority to say what goes into an advertisement for Lysol; for instance, that it is poisonous.

Mr. CLARK. I am not interested in Lysol. I am interested in cigarettes. I should like to clarify the situation further—I may appear to be antagonistic, but really I am not. Is it not now the law that a statement must be made on every package of cigarettes to the effect—and I paraphrase it, I do not quote it—that the cigarettes contained in the package may be deleterious to health, but that the FTC is now prohibited by law from requiring the same warning to be included in advertising of the cigarettes?

Mr. MORTON. That is correct. For 3½ years. For the simple reason that the committee felt the Commission had gone beyond its power. In the case of Lysol, for instance, the Federal Trade Commission cannot require a poisonous label to be carried in the advertisement.

Mr. CLARK. I am not interested in Lysol, I am interested in cigarettes. It is my understanding that Congress, by this conference report, has declared that the cigarette industry must place on every package of cigarettes the statement that smoking cigarettes may be deleterious to health, but the FTC may not require a statement on cigarette advertising to the effect that if one buys a cigarette product advertised in a magazine and smokes it, it may be deleterious to his health. I am wondering what the logical distinction between the two is? Why should we distinguish between what the magazine advertisement will say and what the package of cigarettes will have on it?

Mr. MORTON. This conforms to the entire history of advertising under the Hazardous Health Act passed by Congress. It is not required that we control advertising. It is required that we control what goes on the label. It is in keep-

ing with what we have done. Let me say to the Senator from Pennsylvania that the Senate—and I believe the Senator in charge of the bill, the Senator from Wyoming [Mr. McGEE], will bear me out—was 90 percent in favor of the conference report.

Mr. McGEE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. MAGNUSON. Mr. President, the Federal Cigarette Labeling Act of 1965, which emerged from conference, represents a forthright and historic step toward the responsible protection of the health of this Nation's citizens. I am proud to have been the author of this bill.

By January 1 of next year, every cigarette package, box, and carton will bear the warning "Caution: Cigarette Smoking May Be Hazardous to Your Health" in a conspicuous place and in conspicuous and legible type.

Perhaps equally important, the Senate conferees prevailed in preserving the powers of State and local governments, after a moratorium of 3½ years, to require, if they see fit, that warnings appear in cigarette advertisements within their jurisdiction.

Moreover, at the close of the 3½-year moratorium, the Federal Trade Commission will retain such authority as it may now have to require warnings in advertising. Legal scholars may disagree as to the present authority of the Trade Commission in this matter. But there can be no disagreement that at the close of the 3½-year period—during which the warning on the package label, extensive educational campaigns waged by medical groups, and the industry's own self-regulation will all have had an opportunity to discourage smoking—the FTC will emerge with its full present powers to do what it then deems necessary to protect the Nation's consumers.

The significance of the warning on the label must not be minimized. This warning will serve notice upon all who read it that they smoke at their own risk. And it will make manifest to every American the fact that the Federal Government, upon which he rightly relies to warn him of hazardous substances, accepts the verdict of the Surgeon General's Advisory Committee on Smoking and Health: "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

Mr. CANNON. Mr. President, I share the strong conviction of the senior Senator from Washington [Mr. MAGNUSON] that the cigarette labeling bill which emerged from our conference is a measure in which we can all take great pride. As one of the Senate managers, I am particularly pleased that we were able to preserve the residual authority of the States and the Federal Trade Commission to regulate cigarette advertising.

I was concerned that the conference make it absolutely clear that at the termination of the 3½-year moratorium, both the States and the Federal Trade Commission would retain the authority

which they now have. That is now clear and on the record.

If the Federal Trade Commission today has the authority to require affirmative warnings in cigarette advertising under its basic charter to police unfair or deceptive acts or practices, then on July 1, 1969, it will still have that power. The issue must ultimately be decided by the courts, but nothing that we do in passing this act will prejudice the Federal Trade Commission in asserting its authority.

DONATED SURPLUS COMMODITIES PROGRAM

Mrs. SMITH. Mr. President, officials of the town of Freeport, Maine, have raised some very serious questions about the administration of the donated surplus commodities program of the Department of Agriculture.

Because I feel that these questions will be of interest to all Members of this body as the administration of that program might affect towns and cities in their States, I ask unanimous consent to have the letters of Forest M. French, town manager of Freeport, and John S. Nichols, selectman of Freeport, to the regional director of this program, printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FREEPORT, MAINE,
July 1, 1965.

REGIONAL DIRECTOR,
Division Donated Surplus Commodities,
U.S. Department of Agriculture,
New York City, N.Y.

DEAR SIR: Supplementing Manager French's letter of June 29, with which the board of selectmen is in full agreement, there are several other points to be made from the viewpoint of the municipal official, as follows:

The local cost of administering the surplus food program has risen to the point where it is cheaper to furnish the needy person with a grocery order than to distribute the "free" commodity;

An undue burden has been placed upon the municipality, in the form of increasingly stringent regulations in storage, accounting, and certification;

Certification requirements are such that they reduce the merely needy to the status of paupers, which causes so much resentment that many people we know to be in need do not apply, rather than be subjected to any such probe of their personal lives as is required by the certification investigation and forms;

The certification form itself requires the municipal officer to certify as to the truth of information which he cannot verify. In our opinion no municipal officer could sign this form in good conscience.

When the program was initiated, it did a tremendous amount of good. The Nation benefited twofold; first, since surplus food paid for by taxpayers was put to use, and second, since it was distributed among our own needy. The taxpayer still pays to grow and store the food; but additionally he now also pays the salaries of an unknown number of additional Federal and State employees needed to implement the administration of audit and control functions made necessary by the increasing mass of regulation promulgated by the same agencies which audit and control, ad nauseam.

More than half the communities in Maine eligible for participation have either dropped the program in disgust or have been dropped through failure to comply with one or an-

other of the endless rules. We seriously believe that an effort is being made to kill the surplus food program. We wonder why, and by whom? In our town, the effort has been successful, since we do not feel we can afford to continue. Should conditions improve, meaning economic feasibility and reasonable control of local administration, Freeport would be glad to again participate.

Very truly yours,

JOHN L. NICHOLS,
Selectman.

Copies to: Senators MUSKIE and SMITH,
Representatives HATHAWAY and TUPPER.

JUNE 29, 1965.

REGIONAL DIRECTOR,
Division Donated Surplus Commodities, U.S.
Department of Agriculture, New York
City, N.Y.

DEAR SIR: Recently the municipal officers of the town of Freeport declined to renew the contract with the State of Maine Department of Health and Welfare for the distribution of surplus donated commodities. There are several reasons for their decision.

During the last few years the surplus food program has changed in many ways. Originally the food came in bulk containers, now it is prepackaged for easy distribution—a good change. The forms and criteria for certification have changed to a very strictly regulated program consisting of forms, affidavits for verification and audits, both State and Federal. There has been a change in the mode of evaluating the need of the receiving individual. Now we evaluate the need of the household rather than the individual. We feel that many prudent individuals have suffered under the liquid asset provisions. Example: one elderly lady who receives only social security compensation as an income, and who has \$500 in a savings account for her burial expenses, must be barred from receiving surplus commodities under the present certification criteria. In our opinion the program has changed from a very worthwhile method of disposing of surplus food with more emphasis on the end than the means, to a program which places more emphasis on the means than on the end.

In our opinion the whole program is not accomplishing, in the way of helping poor people, what it could and did in the past. The program seems to have developed into a new function of government, closely guarded by means of reports and audits, which causes the unnecessary employment of many people to carry out the program which, of course, adds to the overall costs and in the final analysis, at least locally, it is not serving as many people as it did 2 or 3 years ago. Example: we were serving 14 families, or 56 people, as of June 1965. Two years ago we were serving 175 to 200 people. We understand the surplus food is not a welfare item but the present certification form is nothing but a welfare type form, thus before one completes it he knows all the information that must be known regarding welfare applicants. I find people are indignant to this sort of probing into their lives.

It would appear that not only Maine is affected. Other New England States such as Connecticut with only 996 persons receiving, Massachusetts with 11,414, Rhode Island with 10,883, Vermont with 17,645 and no distribution at all in New Hampshire, appear also to be affected. Maine with distribution to 22,145 is the top distributor of the New England States and yet has the smallest population.

Perhaps you can tell us why the program is today the way it is. There seems a strong implication that there is a great lack of trust in the judgment and integrity of local officials who must administer the program. Is this so? If not, why all the control?

Our most pertinent question is, Who is re-

sponsible for the changes in the methods and eligibility requirements that have been levied in the last 3 years in Maine? Our State department of health and welfare, division of general relief, has been very cooperative in assisting and answering questions but it appears that they have no alternative course regarding the operation of the program. Out of the 500 Maine municipalities that could enjoy the program in Maine only 194 do, there must be a reason.

We sincerely hope that you can provide us with some answers. We feel very strongly about the good benefits of the program and do not want bureaucracy to kill it in Maine.

Yours truly,

FOREST M. FRENCH.

Copies to: U.S. Senator MUSKIE; Representative TUPPER; Paul McClay, Maine State Department of Health and Welfare.

"THE NATION'S" CENTENNIAL

Mr. GRUENING. Mr. President, when any publication, be it a daily newspaper, a monthly or weekly magazine published in these United States, lasts a century, the achievement is worthy of note. Clearly such a production must have merit if it can persist through the great transformation and the economic ups and downs, that have characterized our America in the past hundred years. For no century in recorded history has seen such revolutionary and unprecedented changes as have these last 10 decades. Indeed, the mortality of American publications in that period has been almost total. The list of these honored dead is almost interminable. Who does not regret the demise of the New York Worlds and New York Suns morning and evening, the Chicago Record Herald, Inter-Ocean and Journal, or the Philadelphia North American, or the Boston Transcript and the Boston Journal, great newspaper institutions in their day; or such magazines as the Century, Scribner's, Forum, North American Review, Collier's—to name only a few? Those few surviving exceptions are therefore entitled to a hearty cheer and admiring recognition.

Accordingly, it is my pleasure to salute the Nation, not merely because it has survived, but because it has been one of the really worthwhile and important ingredients in our civilized society. Unceasingly a battler in the effort to make America live up to its professions, it has striven constantly for the attainment of the ideals embodied in our historical declarations, starting with the Declaration of Independence.

It has been my privilege to serve with the Nation on two occasions; as its managing editor from 1920 to 1922, and again as one of four editors who exercised joint control 10 years later. During those periods, as before and since, the Nation waged many battles, all indicative of consistent purpose. Many of the causes for which the Nation fought have been realized, thought not always immediately, for the Nation was invariably and laudably always ahead of its time. Those causes, of course, include: civil rights and civil liberties, protection of minorities, the basic freedoms, including freedom from censorship, equality of opportunity, and indeed the broadening of our definitions and application of liberty. To these ends some of the most outstand-

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

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WASHINGTON, D. C. 20250
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HIGHLIGHTS: Senate passed agricultural appropriation bill and independent offices appropriation bill. Senate took up housing and urban development bill. House agreed to conference report on cigarette labeling bill. House agreed to conference report on water resources bill. Rep. Cooley introduced farm bill.

SENATE

1. AGRICULTURAL APPROPRIATION BILL, 1966. By a vote of 86 to 2, passed with amendments this bill, H. R. 8370 (pp. 16034, 16035-55). Conferees were appointed (p. 16055). House conferees have not yet been appointed. Agreed to the committee amendments en bloc (pp. 16039-40). Agreed to an amendment by Sen. Hart to provide \$157 million for the school lunch program, rather than \$155 million as reported by committee, with the additional \$2 million to be used for special assistance to needy schools (pp. 16040-3). Agreed to an amendment by Sen. Bass to provide an additional \$75,000 for watershed protection which he stated was "for the purpose of allowing a comprehensive river basin study of all streams draining through Shelby County, Tenn." (pp. 16043-4).

2. INDEPENDENT OFFICES APPROPRIATION BILL, 1966. By a vote of 84 to 2, passed with amendments this bill, H. R. 7997 (pp. 16008-27). Conferees were appointed (p. 16027). House conferees have not yet been appointed. A point of order was sustained against a proposed amendment by Sen. Dirksen to provide \$6,386,800,000 for financing the U. S. liability on payments to the Civil Service retirement fund (pp. 16016-26). This bill includes funds for civil defense and defense mobilization functions of Federal agencies; disaster relief fund of the President; Civil Service Commission; Federal Power Commission; Federal Trade Commission; General Accounting Office; General Services Administration; Housing and Home Finance Agency; Interstate Commerce Commission, and National Science Foundation.
 3. D. C. APPROPRIATION BILL, 1966. Agreed to the conference report on this bill, H. R. 6453. This bill will now be sent to the President. pp. 16079-16111
 4. HOUSING. S. 2213, the housing and urban development bill was made the unfinished business (p. 16056.) Sen. Douglas reviewed the purpose and certain provisions of the bill (pp. 16057-67). Sens. Tower, Javits, and Miller submitted amendments intended to be proposed to this bill (pp. 16033, 16120).
 5. SILK; FOREIGN TRADE. The Finance Committee reported with amendments H. R. 5768, to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk (S. Rept. 433). p. 16120
 6. MARKETING. Sen. Hart spoke in support of S. 985, the proposed truth-in-packaging bill, and inserted a letter by Mrs. Esther Peterson in support of the bill. pp. 16056-7
 7. BUDGET DEFICIT. Sen. Smathers commended the announcement that the U. S. budget deficit for fiscal 1965 was lower than originally predicted and inserted an article on the matter. pp. 16074-5
 8. RESEARCH. Sen. Proxmire expressed concern over possible Federal domination of research at colleges and universities as a result of increasing financial support of science by the Government, and inserted an article, "The Support of Science in the United States." pp. 16075-7
 9. AGRICULTURE. Sen. Morse inserted a letter reviewing economic development in Ore., including agriculture and forestry. pp. 16111-3
 10. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the housing and urban development will be considered today, July 14, and, possibly, the conference report on the water resources development bill. p. 16056
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- HOUSE
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11. CIGARETTE LABELING. Agreed to the conference report on S. 559, the cigarette labeling bill (pp. 15959-66, ~~15998-99~~). This bill will now be sent to the President.
 12. WATER RESOURCES. Agreed to the conference report on S. 21, the proposed Water Resources Planning Act (pp. 15966, 16001-2). See digest 123 for provisions of this bill.

tee on Health and Welfare of the Committee on Interstate and Foreign Commerce may be permitted to sit during general debate this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

FEDERAL CIGARETTE LABELING AND ADVERTISING ACT

Mr. HARRIS. Mr. Speaker, I call up the conference report on the bill (S. 559) to regulate the labeling of cigarettes, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 1, 1965.)

Mr. HARRIS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, pursuant to the action of the House, your conferees have met with the conferees of the other body and after meeting for 2 days and after considerable discussion, we have agreed and bring back to you the conference report which has just been read into the RECORD.

I want it understood by every Member of this body, Mr. Speaker, just what the situation is and what your conferees could do under the rules. In the first place, I felt as I know other members of the conference committee did that it was our primary duty and responsibility to uphold the decision of this House insofar as we could.

We did discuss the matter of cigarette advertising and the labeling of every package of cigarettes and all the related matter involved in the bill at length. I can assure you that the conferees on the part of both the House and Senate gave careful and extensive deliberation to this subject matter. I think, Mr. Speaker, we bring to you a conference report that should be adopted by this House.

This is a highly sensitive and emotional problem and it has been ever since the submission of the report of the special advisory committee established by the Department of Health, Education, and Welfare some time ago. This subject matter has had a lot of attention. We have given days and days of hearings, discussion, and deliberation to it. There is a great deal involved here. Primarily we must take into consideration the health of the people. However, the people of the Nation have a responsibility in a country where the people are educated. Since literacy has reached the degree that it has, it behooves us to let the American people use their best judgment and for us to do the best we can with an emotional problem such as this. I trust this will work in the best interest of all our people.

I think your conferees in carrying out the mandate of the House of Representatives have accomplished this objective insofar as possible.

Mr. Speaker, let me make this very plain. The bill that passed the House of Representatives and the bill that passed the other body insofar as requiring health warnings on every package of cigarettes are precisely and exactly the same word for word. So your conferees did not have any responsibility on this particular point. Contrary to some of the rumors that have been going around, this bill requires a health warning on every package of cigarettes that is distributed for sale in the United States and territories.

The objective of the bill, to start with, was to carry out one of the recommendations of the report of the Advisory Commission, which was that the health hazard should receive official recognition. We have required a health warning on every package.

Some people would have us believe, from the reports I have seen, that it was the purpose of the bill to prevent any such warning. That is not a fact.

There were several differences between the House and Senate versions.

Both provide for a prohibition against warning in advertising. We took the Senate provision with reference to advertising, except that the time during which it would be effective was increased by 6 months. They had a 3-year limitation on the action which could be taken by the Federal Trade Commission on advertising. That would have expired January 1, 1969.

We have run into such situations before, when laws expire on the 1st of January. The reasoning behind the action of the conferees was that if we made it July 1, 1969, Congress would be in session, and would have the 6 months to consider the matter, if it decided any further action were required. For that reason, instead of taking the limitation on an indefinite time which was provided in the House bill, we accepted the Senate amendment with the additional 6 months.

As Members will see from page 6 of the conference report, during that time it is expected the Congress will again have an opportunity to review this entire matter, to see whether any further legislation is required. I was quite impressed with the position of Senator NEUBERGER on this subject. It is felt that the scientists and technicians, the research people in this field, will no doubt come up with some new information. There may be a breakthrough. Then the whole matter can be reviewed and it could then be determined on the basis of what is best for the health of the people of the Nation and for the interest of all of our people. I believe that is a sensible and sound approach.

Otherwise there is only one issue which should be mentioned. The other six or seven issues are mostly minor in nature.

With reference to the placing of the notice on the package, we provided that it should be in a conspicuous place and

in conspicuous print on every package of cigarettes.

On the findings and declaration of policy, we omitted the findings but retained the declaration of policies.

The definition of "cigarette" was agreed to on the basis of utilizing the definition which was recently enacted in an amendment to the Internal Revenue Code. We believed that to be a reasonable and practical approach to this problem.

Mr. Speaker, that covers the action of the conferees on this problem, which is a very important one, as we recognize.

I ask that the conferees be upheld in their action, for I believe we have done the best we could under the circumstances on behalf of the House and the House position.

(Mr. HARRIS asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MOSS].

(Mr. MOSS asked and was given permission to revise and extend his remarks.)

Mr. MOSS. Mr. Speaker and Members of the House, this bill should be defeated by rejecting this Conference Report. The conference report reflects improvement over the bill, unfortunately passed by this House just a few weeks ago, but neither the bill nor the conference report, as it has emerged, serves a single legitimate public need. If the objective here is better to protect the American public, an intelligent public—a concerned public—then let us examine how we are proposing to do it.

First, implicit in the bill, whether you take the conference version, the version from the other body, or the one which the House passed, is a finding that smoking may be dangerous to your health. Now that is hardly a startling finding, but the objective, so we are told, is to give warning and, having forthrightly made that finding, we then in whispered tones warn who? We warn the man or woman who is already hooked—those citizens who are every day concerned with trying, in the great majority of instances, to stop or cut down on their own personal consumption of cigarettes.

These people know that it may be injurious to their health. It worries them all day and perhaps it adds to their consumption. There is not a shadow of doubt in their minds but what it may be injurious to their health.

Mr. COOLEY. Mr. Speaker, will the gentleman yield?

Mr. MOSS. Yes, I will be very happy to yield to the gentleman.

Mr. COOLEY. What kind of a label do you want to put on there? A skull and bones?

Mr. MOSS. If you will be patient, I will tell you.

Mr. COOLEY. I have been waiting.

Mr. MOSS. I do not care what kind you put on the package. I am not concerned about fellows like me who have smoked for years. They are as smart as

I am and they know what they are risking. I am concerned about the young men and women of this Nation who may not be fully informed.

Mr. COOLEY. Mr. Speaker, will the gentleman yield for 1 more minute?

Mr. MOSS. Yes, I yield to the gentleman.

Mr. COOLEY. You quit smoking and you want everybody else to quit smoking.

Mr. MOSS. I do not know whether I have quit or not. I have tried to do it before and I laid off for a short period and got back into the habit. I cannot guarantee anyone, least of all myself. I know how difficult it is, and I know how much concern a person has about it. However, I am concerned about the young men and women of this Nation, that they should be adequately informed as to the hazards. I want them to know in a forthright fashion. To put it on the package adds nothing.

Mr. HAGAN of Georgia. Mr. Speaker, will the gentleman yield?

Mr. MOSS. Yes, I yield to the gentleman.

Mr. HAGAN of Georgia. I would like to ask the gentleman how much tobacco he grows in his District?

Mr. MOSS. I do not grow a single bit of it but I have industries that share in this lush advertising melon which goes to a quarter of a billion dollars each year. I am not understating the economic significance of tobacco, but on that basis of justification, we cannot be critical of some of the countries of the Far East who continue to maintain a traffic in certain drugs which are outlawed in this country, because they contribute to the economy of those countries. That is not the question. We have made the finding in this legislation that it is hazardous and we have said here by an act of Congress, if it becomes law, that it is sufficiently hazardous to warn the people. So, really, the only issue before us is how do we most effectively warn? By stripping the Federal Trade Commission of every bit of authority it has? By stripping the Food and Drug Administration of any authority it might have?

By taking from your State and my State any authority they might have? By taking from my city or my county where we have responsible public health officials every bit of authority that they have? Because we lay down the absolute fiat that no other warning may be required and only here in this House, with the concurrence of the other body, can we change the innocuous, the meaningless requirement that is going to be put on the package in an inconspicuous manner.

I have heard all the discussions as to whether or not smoking is good or bad for you. I recognize that there is great divergence of opinion. But I know, as the ladies and gentlemen of this House know, that my friends who have come up with heart attacks have been told to stop smoking. Maybe there is no reason for it.

I know, as you know, that my friends who have come up with evidence of emphysema have been told to stop smoking. I had a relative who came up with lung

cancer. They did not tell him to stop smoking. I assume they thought it would be a useless gesture.

We have a very solemn responsibility here to every person we represent, but most of all our responsibility goes to the young men and women of the United States. Statistically we know that 4,000 of them start smoking each and every day. What responsible action as a government have we taken to alert them to the hazards upon which they embark? And we are going to try to kid ourselves that we have met our responsibility by putting the smoker, only the smoker, on notice, that when you open this pack—and God knows you are going to open it, and you take out that cigarette, we hope you see the notice that it may be hazardous—the notice on its back or its bottom or its side. But we are not going to alert you by any other means.

We are going to strip every other agency, every other jurisdiction, Federal, State, or local, of the right to do that which we are too timid to do. I do not think, if that is our course, that we meet our responsibility, that we fulfill the demands that the American public has the right to make on us.

Mr. ROOSEVELT. Mr. Speaker, will the gentleman yield?

Mr. MOSS. I yield to my colleague from California.

Mr. ROOSEVELT. Will the gentleman make clear what is the result of defeating the conference report today?

Mr. MOSS. If no legislation is passed, then the orders of the Federal Trade Commission will become effective, notice will be required, and the industry, which maintains the Commission is without authority, can go into an appropriate court and test the authority of that Commission to spell out a requirement on labeling and a notice on advertising, and we will be further ahead. We achieve absolutely nothing in a positive, in a constructive sense by adopting either the bill we passed and sent to the other body or the bill the other body passed and sent to us, or the compromise contained in this conference report. I hope it is defeated.

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. SPRINGER].

(Mr. SPRINGER asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, will the gentleman yield to me?

Mr. SPRINGER. Yes, I yield to the gentleman from Arkansas.

Mr. HARRIS. Mr. Speaker, I believe the House should be advised that the conference report, after having been agreed to by the conferees, was adopted by the other body, and the conferees have been dismissed. This then presents to the House of Representatives this question of whether or not this conference report will be adopted in the House.

Now, Mr. Speaker, if the gentleman will permit, in further response to the question asked by the distinguished gentleman from California [Mr. ROOSEVELT]: What would happen should the Congress do nothing about the Federal Trade Commission's announced intention?

Mr. Speaker, I believe our colleagues know that in order to comply with the provisions of the Administrative Procedure Act a great deal of time will be required.

Furthermore, after the administrative procedures have been followed, there will be lengthy litigation. It was conceded even by the Federal Trade Commission that it would be anywhere from 2 to 5 years before a final decision could be obtained.

Consequently, Mr. Speaker, if this conference report is not agreed to, we can expect that it will be 2 years, 3 years, or even longer before anything in the way of a warning can be required on cigarette packages.

On the other hand, if this conference report is adopted, then beginning January 1 of next year every package of cigarettes will be required to have on the label a warning as to a health hazard which is incurred in smoking.

Therefore, Mr. Speaker, the alternatives thus will be of cigarette labeling becoming effective January 1 of this year or postponing this action for 2 years, 3 years, or perhaps longer.

Mr. Speaker, I believe it is highly important that we are going to let the American people know that there is a hazard here and put it on every package of cigarettes. Therefore, we must approve this conference report.

Mr. SPRINGER. Mr. Speaker, first of all I believe we ought to pin down exactly what the other body has done and then what we have done in the House of Representatives, as well as what are the major differences involved.

Mr. Speaker, when this bill was pending before our committee in executive session, I thought that it got about as thorough discussion as any bill during the 15 years that I have served on this committee.

May I say to my distinguished friend, the gentleman from California [Mr. MOSS], that he made some very fine contributions, as did the gentleman from Michigan [Mr. DINGELL].

Mr. Speaker, we finally had to resolve, what are we going to do, or are we going to do anything today?

The first thing with which we were faced was whether or not we were going to have an opportunity to do something constructive, something constructive on this now; not a year from now, 2 years from now, 3 years from now, 4 years from now or 5 years from now. In other words, are we going to be able to do anything constructive on this matter in 1965?

Mr. Speaker, it was my conclusion that unless we passed some bill on which the House and the other body could agree this summer, we were not going to have any label or any warning to young people until this matter was litigated between the cigarette industry and the Federal Trade Commission which was bound to be years from now.

Now, Mr. Speaker, the distinguished gentleman from California pointed out the fact that we had a responsibility, and I know that he feels very strongly about this. I felt just as strongly. I was not satisfied with all of this, may I say, and I could name any number on both sides of the aisle that were not satisfied with

exactly what you have pending before you here today. But I, and they still felt, in spite of the fact that this was not everything we wanted, it was better than not coming up with some legislation in 1965.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. HARRIS. Mr. Speaker, I yield the gentleman 3 additional minutes.

Mr. SPRINGER. In spite of the fact that we were not satisfied, we did feel we had a responsibility now to do something about labeling of cigarettes so that the children at least in this country would have some warning in 1965.

The gentleman from California has said it is not the warning he wanted. He may be right. But this was the only warning we could agree on. Are we to say we do not want any warning, because we cannot get the warning each of us wants. Am I to say because I did not get the one I want there shall not be any legislation in this field?

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Florida.

Mr. FASCELL. Is there any legal significance either for the manufacturer or user by way of presumption or otherwise because this warning is placed by law on a package of cigarettes?

Mr. SPRINGER. For injury?

Mr. FASCELL. Yes.

Mr. SPRINGER. I do not believe there is anything in this bill that would have anything to do with what the gentleman from Florida suggests.

Mr. FASCELL. If a smoker is injured as a result of smoking, and there is a warning required by law that smoking may be injurious to health, does that waive or create a legal presumption or defense in a personal injury suit because of the use of the article notwithstanding the warning?

Mr. SPRINGER. I am not sufficiently a lawyer in Federal Trade Commission practices to be able to advise the gentleman.

Mr. FASCELL. The legislative record makes it clear that passage of this law and compliance by the manufacturer in no way affects the right to raise the defense of "assumption or risk" and the legal requirement for such a defense to prevail; nor does it shift the burden of proof, nor could it be considered a legal or factual bar to the plaintiff user.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Florida.

Mr. PEPPER. I would like to ask the able gentleman whether the limitation upon the authority of the Federal Trade Commission which appears to be contained in section 5(c) would prevent the Federal Trade Commission from stopping a cigarette manufacturing company advertising on TV or otherwise that, as a matter of fact, cigarette smoking is not injurious to one's health?

Mr. SPRINGER. I yield to the chairman of the Committee on Interstate and Foreign Commerce to answer that.

Mr. HARRIS. The question is, Is there any authority left to deal with advertising that there is no health hazard?

Mr. PEPPER. Yes. In view of the limitation of the authority of the Federal Trade Commission in this field which is prescribed by this act, if enacted, if a cigarette company or all of them felt that they desire to counteract this warning Congress has required to be placed on the package, and they should develop an extensive advertising program that there was no responsible evidence, no authentic evidence, no convincing evidence that smoking is hazardous to health, would the Federal Trade Commission have authority to prevent that kind of advertising program?

Mr. HARRIS. In the conference report we provide that the Federal Trade Commission has no authority to require a health warning in advertising, but as it was carefully explained during consideration of the bill on the floor of the House, that this did not include deceptive practices or false advertising. We did not in any way intend to restrict the Federal Trade Commission in carrying out its duties and responsibilities under the Federal Trade Commission Act on false and deceptive advertising.

Mr. PEPPER. Would it then be a legal matter to be determined in the court if the Federal Trade Commission asserted the power to proscribe such advertising, as to whether it was deceptive or not?

Mr. HARRIS. It would be within the jurisdiction of the Federal Trade Commission in the first place to make a determination as to whether or not this advertising was false or misleading. If the Federal Trade Commission determined that it was, it may move in to prevent such advertising.

Mr. PEPPER. Does that not assume that it would be a fact that cigarette smoking is injurious to health as the predicate for such action by the Federal Trade Commission; would it not be said that the Congress has taken a position far short of that by saying that cigarette smoking may be injurious or may be hazardous to health?

Mr. HARRIS. The facts as developed by the committee and as obtained from scientists and medical people who have gone into this matter and studied it over a period of years is that there are those, people with outstanding background and good reputation, who claim that is a fact. There are those with equally outstanding reputations in this field who claim it is not a fact and they showed us pictures, extensive pictures as to how it was not a fact.

So I am not in a position to say whether or not the Federal Trade Commission would be able to sustain a position of this kind or not. I think it would have to develop the facts in order to determine whether or not it is an actual health hazard. There is no question that the evidence is conflicting.

Mr. PEPPER. May we, then, make it a part of the legislative history of this matter that the able chairman is saying it is not intended by the authors of this act that the Federal Trade Commission would be prevented from making such an assertion and letting the matter be determined in the court?

Mr. HARRIS. I would say to the gentleman, we have made that explicit in the conference report and I would re-

fer the gentleman to the report. We do not intend by this report to change the present authority of the Federal Trade Commission in any way one way or the other.

Mr. PEPPER. And the Federal Trade Commission could act in that situation?

Mr. HARRIS. If they have the authority to act today, they would have the authority to act under this legislation.

Mr. PEPPER. I thank the able chairman, and I thank the distinguished gentleman from Illinois for permitting us to clear up this point for the record.

Mr. SPRINGER. Mr. Speaker, I was at the point a few minutes ago on the question of what is our responsibility today, in 1965? Those of you who feel so strongly about this and who might on a rollcall vote vote against it, I think that is your privilege. But I say as a practical matter, if you do there will not be labels put upon any cigarette package until this litigation is finally adjudicated in a court of law, 2 to 5 years away.

I think we have a responsibility even though we may not agree with everything that is in this conference report. We have a responsibility to the young people of this country to say now in the summer of 1965 that we are giving them a warning with reference to the danger in cigarette smoking. I think that is our responsibility today. I say to those who have their doubts—please think of what is going to happen if we do not pass any legislation today.

I would like to refer to two other things very briefly. The label provision that was adopted by the House and the label provision that was adopted by the Senate are identical. There is no difference and may I read it to you. The wording is as follows: "Caution: Cigarette smoking may be hazardous to your health."

In the conference we agreed on this. This was because it was identical in both Houses and as you well know when you go to conference you cannot vary anything which is identical in both bills.

The second matter had to do with a termination. In the House bill we had no termination date. In the Senate bill there was a termination date. May I say we do not mean because there is a termination date, which happens to be July 1, 1969, that we do not intend to do anything about this at that time. If I am here in July 1969 I want to take a look at this and if something else is required, I will do my best to get it. But this was the best thing we could get insofar as a review was concerned.

If you are talking about the realities of the bill, in my opinion those are the two pieces of meat in this legislation.

Mr. ROOSEVELT. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from California.

Mr. ROOSEVELT. Is it not true that an order by the Federal Trade Commission, once made, would become effective, and any litigation concerning it would not lift the effectiveness of the order until a court ordered the reversal of the order itself; and, therefore, the Federal Trade Commission could take action immediately?

Mr. SPRINGER. That is not true, as a matter of fact or procedure in Federal Trade Commission matters.

Mr. ROOSEVELT. Is the gentleman sure?

Mr. SPRINGER. I believe I am safe in saying that is not the law. Such orders of the Federal Trade Commission are, as a matter of course, stayed until the matter is fully adjudicated in a court of law.

Mr. ROOSEVELT. It certainly is the law with respect to the cease and desist orders of the Federal Trade Commission, with which I am familiar.

Mr. SPRINGER. In certain orders of the Food and Drug Administration the gentleman is correct. In this case I feel sure he is not.

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. BOLLING].

Mr. BOLLING. Mr. Speaker, I am grateful to the gentleman from Arkansas, the distinguished chairman of the committee, for yielding me this time.

Primarily I should like to address myself to procedure and alternatives. The impression is left that there cannot be prompt action unless this conference report is adopted. The impression is left that action by the Federal Trade Commission, which we are supposed to believe is the only other alternative, would take from 2 to 5 years. Obviously, this is ridiculous on the surface. There is another alternative.

The great Committee on Interstate and Foreign Commerce is perfectly capable of reconvening and bringing out another bill.

Just because the committee was able to get through this House of Representatives on a certain Tuesday a piece of legislation which it agreed upon, when the only person who opposed the legislation strongly enough to sign a minority report was known to be away and unable to return—

Mr. HARRIS. Mr. Speaker, will the gentleman yield to me?

Mr. BOLLING. I yield to the chairman.

Mr. HARRIS. I would not let the statement the gentleman made go unchallenged, so far as I am concerned. As chairman of the committee, the leadership asked me to be ready. I did not know that the gentleman from California [Mr. Moss] was not here. I can assure the gentleman from Missouri that had I known he was not present I would have said so and suggested the bill not be called up at that time.

Mr. BOLLING. I accept the gentleman's statement.

The fact remains that the bill did come up and it was debated in the absence of the person on the committee who most strongly opposed the bill.

As to how that happened, I made no accusation. I state a fact. That is a fact.

I state a further fact. I understand that the gentleman from California had been advised, as was I, it was probable that the bill would come up on the following Thursday. I was advised by a competent source that it would come up on the following Thursday.

I believe the best thing this House can do, in the interest of the American public and especially the interests of the younger members of the American public, is to defeat the conference report and let the process begin over.

I agree entirely with what the gentleman from California has said in his very excellent statement. The people who buy packs of cigarettes buy them because they are going to smoke them. They are, as he said, "already hooked."

Regardless of all the colloquies and all the discussions, what we have in this bill is a preemption. The language should be read. Section 5(a) says:

No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

My State may decide it wants to, but it could not. The same would be true of all States.

No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

That language is clear. This preempts the right of any entity, of any government, to decide for itself, "What about cigarettes?"

I believe that for those reasons we should clearly defeat this conference report.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from Florida.

Mr. FASCELL. There might be one consoling factor in the adoption of the conference report. By virtue of the language being required as a result of the law, it would raise the presumption that every company that makes and distributes this process does so with knowledge. If that is true, it would redound to the benefit of a plaintiff bringing an injury suit.

Mr. BOLLING. I thank the gentleman for his contribution.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the distinguished Speaker.

Mr. McCORMACK. I want to have the record clear. I came in the Chamber recently and I wonder if the gentleman was criticizing the leadership for programming the bill?

Mr. BOLLING. The gentleman criticized no one, but stated some facts.

Mr. McCORMACK. The facts are that the bill was programmed. There was no knowledge, and I had no knowledge that the gentleman from California [Mr. Moss] was away. The bill was programmed in the regular way. I was advised while the bill was under consideration the last day that he was trying to get back from abroad and it was expected his plane would arrive in time. I do not want to get into any controversy on it but any intimation, directly or indirectly, that this bill was not programmed in the proper way is something that I could not stand in this Chamber and let anyone get away with.

Mr. BOLLING. I would like to say to

the Speaker that I stated a set of facts. I did not draw any conclusions but I stated the facts.

The SPEAKER pro tempore (Mr. Boggs). The time of the gentleman has expired.

Mr. HARRIS. I yield the gentleman 1 additional minute.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. MOSS. Mr. Speaker, I had not intended to indulge in a controversy over my absence, which I might have. It was my first absence overseas in 10 years. I am very regular in my attendance in this House. However, I would have been here on Tuesday had I not been told by a very responsible Member of the leadership that the bill would come up on Wednesday or Thursday, and probably Thursday, and I use the precise words of that gentleman. I am not one to absent myself and then cry over the consequences. I would have been here had I not had assurance to the contrary.

Mr. ROOSEVELT. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I yield to the gentleman from California.

Mr. ROOSEVELT. With reference to a previous discussion, I have checked with the General Counsel of the Federal Trade Commission who informs me that an order of the Federal Trade Commission remains in force during litigation unless specifically stayed by a court order. So the Federal Trade Commission would not be completely helpless, shall I say, in the matter.

Mr. HARRIS. Mr. Speaker, I yield myself 1 minute.

First let me say that the experience has been in the major regulatory agencies over which we have jurisdiction that when an order is promulgated by or regulatory agency and an appeal is taken from it, then customarily the order is stayed until the litigation has been concluded.

Mr. COOLEY. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman.

Mr. COOLEY. That is the observation I wanted to make.

Mr. HARRIS. That is the record and that is generally true throughout. Now, Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. KORNEGAY].

Mr. KORNEGAY. Mr. Speaker, first I want to commend the chairman of the Committee on Interstate and Foreign Commerce for the wonderful job which he has done through two long and tedious hearings on this subject matter and to commend him on the job he has done in steering this legislation through the House and up to the point where it has arrived today. I want to say that I attended virtually every session of those two long and tedious hearings and listened to the many, many witnesses that testified in connection with this bill we have before us now. I was one of the conferees and I say to you that I do not like the conference report myself, but I am going to support it and urge my

colleagues to do likewise. I come from the State that makes about 62 percent of the cigarettes that are made in this country. I say this although most of you know it, but I would like to emphasize it because my district, my State, and our Nation have a great interest in this particular piece of legislation.

I take the position that I do not like all of the conference report because I think the House had a much better bill. It was a sounder bill. It was a bill that was in accordance with the present law. I say to you that in my opinion the Federal Trade Commission does not have the authority to do what it did in this instance. There is legal authority for my statement, in a well written and well documented Law Review article from the University of Pennsylvania Law School last December, which draws a distinction between "informative" and "corrective" advertising insofar as the jurisdiction of the Federal Trade Commission is concerned.

I wish that all of you here could read this article. I wish that all of you here had read the full committee hearings on this subject matter. And while there is a great controversy raging I say to you that the preponderance of the evidence, in fact the great preponderance of the evidence presented to our committee was to the effect that the report of the Surgeon General was not as conclusive, was not as strong and was not as convincing as many were first led to believe. In fact, it is inconclusive and contradictory.

There appeared in this morning's Wall Street Journal an editorial quoting one of the great medical experts of the country, Dr. Joseph Berkson of the Mayo Clinic, in which he noted that "huge blunders have been made with the uncritical use of statistics," and said that the committee's studies were not based on true random samples—he was talking about the Surgeon General's committee. He said that the followup procedures were inadequate. He also pointed out that there was almost total absence of clinical or pathological—as opposed to statistical—evidence in the controversy over smoking's effects.

Many outstanding experts in the medical field of this country have challenged the Surgeon General's report. There is a great controversy here. Members of Congress, including myself, have tried to get money authorized and have bills passed for research into this area. This is a vital area. This is of serious consequence to the health of our people and I am very much interested in the health of our people.

It is also of great importance to the economy of this Nation—yes, to the State of North Carolina, but also to the entire Nation.

My good friend from California, and I respect him, and I know his feelings on this subject, but I say to you and I say to him that if he feels as strongly about it as he seems to do, that cigarettes are doing a great damage, he ought to introduce and support a bill that would outlaw the sale, the use, and the possession of cigarettes.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. KORNEGAY. I yield.

Mr. MOSS. The gentleman from California is a realist. I know how very desperate the situation would be even to schedule the matter for hearing at this time.

Mr. KORNEGAY. I appreciate the gentleman's remarks.

Now, with reference to getting to the youth of the country. Do you know that in 47 of the 50 States it is illegal to sell cigarettes to minors, that in 21 of those States it is unlawful for minors to use or even possess cigarettes, that in only 3 States—Wisconsin, Louisiana, and Georgia—there is no legal prohibition in their State statutes against the use of cigarettes?

This prohibition by the States of sale to minors is a far greater deterrent to usage of cigarettes by our youth than the labeling of advertising which some seem to want so desperately.

The truth of the matter is, if the FTC or the Congress were to force warnings on advertising, it would for all practical purposes stop cigarette advertising altogether—another \$250 million blow to our economy.

But, aside from the matter of economy, the question here today is much broader. We are here to decide if a major employer and tax producer is to be convicted on flimsy and inconclusive testimony. To do more than what this bill sets out to do would not be corrective, but would be punitive.

Today, we pick on tobacco, what commodity will be next?

Mr. HARRIS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. YOUNGER].

(Mr. YOUNGER asked and was given permission to revise and extend his remarks.)

Mr. YOUNGER. Mr. Speaker and my colleagues, I am somewhat surprised at this late attack on a report from our committee.

Mr. Speaker, we have had this matter under consideration for some time. Our committee is composed of 33 Members of this House of Representatives. I am not a smoker. We do not raise tobacco in my district. However, I did sit through all of the hearings, and I believe the chairman of the committee, the gentleman from Arkansas [Mr. HARRIS], will verify the fact that I was probably there almost continuously. I heard all of the evidence that was presented. Then we went into executive session in an effort to try to work out a bill, which we did mark up.

Mr. Speaker, when we finally considered this bill in committee there was not even a request for a rollcall vote on the bill. There is no record rollcall vote. When we considered the bill on the floor on this "famous Tuesday" which they mention, you had before you the committee report, and there was only 1 Member out of 33 that even filed a report against the bill.

Now, Mr. Speaker, if there was other opposition that might have appeared that day, it did not show up.

Of course, Mr. Speaker, we cannot tell who is on these trips to Europe or who is not, because you look at Drew Pearson's column and if they are not mentioned, then you assume that they are here. There was no mention made in Drew Pearson's column that the gentleman from California, my colleague, was away from this country. So we had no knowledge that he was away.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. YOUNGER. Yes; I yield to the gentleman from California.

Mr. MOSS. The gentleman has made a statement that is not according to fact. I do not have to let you know that I am away. I went to the appropriate Member of the leadership and informed him of my contemplated absence and determined the schedule proposed for this House.

Mr. YOUNGER. I thought Drew Pearson was the authority on that.

Mr. MOSS. Why do you not deal with the issues contained in the bill and not with the personalities or members of the committee? It would be much more constructive.

Mr. YOUNGER. I thought Drew Pearson was the one who gave us information on who was on trips overseas.

Now, Mr. Speaker, you Members have had the benefit of the counsel of 32 of the 33 members of this committee and I would say it would be rather inappropriate at this time, after we have gone through a long period of hearings, a long period in executive sessions, to reject this conference report. We came to you with a bill and if you want to be realistic, then the realistic consideration would dictate that this is the best bill that could be brought before you today for adoption.

Mr. Speaker, I plead with the Members to accept this conference report.

Mr. HARRIS. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. UDALL].

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Speaker, this bill should be entitled, "A bill for the relief and protection of the tobacco industry."

Most of the speakers today have indicated that they are unhappy with the bill. In fact, I do not know of anyone yet who seems to really approve of it. I trust then that those who want to do something about this situation will help us improve the bill by relieving it of its enacting clause. This, in effect, is what we will do if we disapprove the conference report.

Stop and think about something for just a moment. Is it not a strange fact that the Members from the tobacco States—and they are some of my best friends and some of our most capable Members—are all for this bill? Yet this bill, on its face, requires them to take the dreadful step of placing health warning labels on cigarette packages. Why would they possibly be for such a bill? They are for it because there are some hookers in the bill.

Hooker No. 1 is the preemption against any State or local government doing any-

thing about cigarette advertising for the next 3 years. No government, nor the Federal Trade Commission, will be able to do anything about the one serious problem, about the one weapon which might do something constructive. I am talking about advertising.

Hooker No. 2 protects them against lawsuits by cigarette users as our colleague, the gentleman from Florida [Mr. FASCELL], has noted.

Hooker No. 3 restricts FTC in its effort to limit misleading advertising.

Mr. Speaker, I would like to pose a question which has not yet been asked. What in the world is wrong with doing something about cigarette advertising? It has already been pointed out that this harmless, innocuous, labeling affects only the people who are already smoking. It gets only to people who already know the dangers of smoking. This bill does nothing about the 4,000 Americans, nearly all of them young people, who each day take up this habit. Millions of these young Americans will eventually develop lung cancer or will have emphysema, or other diseases as a result of the decision to smoke. This bill does nothing about this danger and this is why it should be defeated.

We have been told today that there is a question whether the Federal Trade Commission really has jurisdiction over cigarette advertising. Apparently, there is no question about its right to regulate advertising for shampoos, or hearing aids, or deodorants, or underwear, but there is a serious question, we are told, about its right to regulate advertising for the most serious health menace facing the Nation.

I would suggest to the committee then that it go back and write a bill which right now will clearly give the Federal Trade Commission complete jurisdiction over cigarette advertising. Then, something constructive can be done.

This conference report ought not to be adopted. This bill should not have been passed in the first place. I urge my colleagues to take an opportunity they will have in a few minutes to register their opposition to the cigarette industry's policies and the great victory they seek to achieve through this bill.

Mr. HARRIS. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. NELSEN].

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, it is with a sense of futility that I express opposition to this conference report. It is apparent that the House is not in the mood to weigh the consequences of this action.

First, let me make it clear I am opposed to giving the Federal Trade Commission jurisdiction over this question. However, I feel that the Department of Health, Education, and Welfare and specifically its Food and Drug Administration has been derelict in its responsibilities to safeguard the public health, should it be conclusively determined that cigarette smoking is harmful.

Numerous references have been made in the debate to supporting further research in this field. Certainly, coordination of various research programs is long overdue, and this is an area that should require major priority of the bureaucrats at the Food and Drug Administration.

However, Mr. Speaker, there are some positive aspects to the developments in the debate this afternoon, even though the outcome of the vote is, as I have pointed out, unfortunately a foregone conclusion. We should recognize that the public interest in many unanswered questions requires us to support all forms of research that could conclusively prove the exact contribution cigarette smoking makes to throat cancer and other physical ailments.

Mr. Speaker, it is also heartwarming to note the vigorous defense of States rights by our most respected colleague from Missouri [Mr. BOLLING] and our equally distinguished colleague from California [Mr. ROOSEVELT]. It is my fond hope that in all future debates in this and future sessions of Congress they will always be found on the side of States rights when the issue revolves around this type of governmental philosophy.

Mr. NELSEN. Mr. Speaker, I hope this conference report is adopted. As has been so thoroughly pointed out, our committee almost unanimously reported this bill out, and I think for many good reasons.

No. 1, there was debate in our committee as to whether or not this is a health hazard. We are assuming it may be. I do not believe that the question of whether to use "may be" or "is" will make a great deal of difference so far as the label is concerned.

The conference report goes further than the House bill went, and I think in the right direction. I might point out that in requiring the tobacco industry to label the package to the effect that the cigarette may be injurious to health, is a giant step forward.

When we get into the advertising field we could be involved with 50 different regulations from as many States. A situation would develop that would be very difficult. The same is true with labeling.

Our committee attempted to meet its responsibility through an act of Congress, and we moved in the right direction. We have made a progressive step forward, and I hope the conference report is adopted.

Mr. HARRIS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ROGERS].

(Mr. ROGERS of Texas asked and was given permission to revise and extend his remarks.)

[Mr. ROGERS of Texas addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. McGRATH. Mr. Speaker, I voted against passage of the Federal Cigarette Labeling and Advertising Act because I felt the exemption of cigarette advertising from terms of a Federal Trade Com-

mission order provided in the measure rendered the act unsuitable for solving the situation it was intended to remedy.

The entire purpose of this act was to provide the American public with a warning that cigarettes may be hazardous to the health of smokers. If such a warning is to be effective, it would seem logical that potential smokers should have the benefit of such a warning before they purchased cigarettes. To have the warning brought before them only after they have purchased their cigarettes robs the warning of its effectiveness and, it seems to me, robs the act of a large measure of its intent.

It was and is my opinion that if we are to provide Americans with such a warning as to the possible hazards of smoking cigarettes, that warning should be contained in the advertising issued by cigarette manufacturers.

Not only was the intent of this measure rendered less effective by limiting the warning to the cigarette packages, but I feel the bill as it was presented to the House for a vote amounted to special legislation. Of all the forms and types of products manufactured in the United States and which are advertised in the various advertising media, only one item—cigarettes—is now exempted from terms of Federal Trade Commission regulations as a result of passage of this act. This I feel to be unfair.

The combination of the unrealistic failure to include the potential health hazard warning in cigarette advertising and the unfair exemption of cigarette manufacturers from terms of FTC regulations prompted me to vote against passage of this act.

Mr. CORMAN. Mr. Speaker, I rise in opposition to the conference report on S. 559 which would strip the Federal Trade Commission of the authority to regulate cigarette advertising and protect the health of the American people.

The Federal Trade Commission was established by Congress in 1915 to maintain free competitive enterprise as the keystone of the American economic system. One way in which it has been able to fulfill this vital responsibility to the American people is by preventing deceptive trade practices. Such practices not only are detrimental to our free enterprise system—they are harmful and often fatal to the consuming public.

This body is on the verge of passing legislation which would completely divest the FTC of its lawful function to protect the American consumer. The Surgeon General, a high-ranking and esteemed Federal official, has made it abundantly clear to this Congress that, without a doubt, cigarette smoking is a serious hazard, claiming nearly 300,000 lives a year.

The supporters of S. 559 apparently are aware of the need to inform the American public of the hazards of cigarette smoking, for they are seeking a printed warning on each package of cigarettes. But, at the same time, they are refusing to set up requirements as to where or how this warning should appear and they are denying the FTC its rightful power to enforce the warning regulation.

The bill now before us is so ineffectual that it is virtually useless. But, more important, it is a direct infringement on a fine executive agency whose purpose is to serve the public by protecting it against commercial deception. If the truth about the very real danger of cigarette smoking is not made 100 percent clear to the American people, we are assuredly being deceived by the tobacco industry.

I strongly urge this House to reject the conference report on S. 559 in favor of strong legislation which will be in the best interest of the health and future of the American people.

Mr. RUMSFELD. Mr. Speaker, I rise in opposition to acceptance of the Federal Cigarette Labeling and Advertising Act conference report. This legislation, supported by the cigarette lobby, will prevent any Government authority—Federal, State, or local—from requiring health hazard warnings in cigarette advertising until July 1969. This bill will preempt this area not only from State or local activity, but also will prohibit action by the FTC, the duly authorized, independent regulatory agency.

It flies in the face of the unanimous Surgeon General's Advisory Committee on Smoking and Health report. The Advisory Committee consisted of 10 outstanding private physicians and scientists selected by the Attorney General with the approval of the cigarette industry.

At the same time, believe it or not, the Congress continues to waste millions of taxpayers' dollars by subsidizing tobacco while appropriating increasingly large sums of money for medical research, including cancer, and health care. These obviously conflicting efforts point up, I believe, the idiocy of continued tobacco subsidies.

The heart of the issue, however, with respect to S. 559, is whether the FTC should be stripped of its authority to require health hazard warnings in cigarette advertising, if it deems such action advisable.

Careful studies done by the FTC show that the industry in 1964 had advertising expenditures in all the uses of mass media of nearly \$260 million. We are all familiar how such advertising in particular influences our young people.

I urge the House to reject the conference report. If we reject the conference report the FTC and/or other governmental units will not be prohibited from any activity. Further, if the Congress desires a more careful look at this problem, sufficient time remains during this session to consider, report, and pass a more reasonable bill of less sweeping implications.

Mr. HARRIS. Mr. Speaker, your conferees have done the best they could under the circumstances. We believe we have a good conference report.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Boggs). The question is on the adoption of the conference report.

The question was taken.

Mr. BOLLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. [After counting.] One hundred and ninety-three Members are present, not a quorum.

The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 285, nays 103, answered "present" 1, not voting 44, as follows:

[Roll No. 185]

YEAS—285

Abernethy	Edwards, Ala.	McDade
Adair	Ellsworth	McDowell
Adams	Evans, Colo.	McMillan
Anderson,	Everett	Macdonald
Tenn.	Evins, Tenn.	MacGregor
Andrews,	Fallon	Machen
George W.	Farnsley	Mackay
Andrews,	Farnum	Mahon
Glenn	Fascell	Mailliard
Annuizio	Feighan	Marsh
Arends	Findley	Martin, Ala.
Ashbrook	Fino	Martin, Mass.
Ashmore	Fisher	Martin, Nebr.
Aspinall	Flynt	Matthews
Ayres	Fogarty	May
Baldwin	Foley	Meeds
Bandstra	Ford, Gerald R.	Michel
Baring	Fountain	Mills
Barrett	Frelinghuysen	Minshall
Bates	Fulton, Pa.	Mize
Battin	Fulton, Tenn.	Moeller
Beckworth	Fuqua	Monagan
Belcher	Garmatz	Moore
Bell	Gathings	Morgan
Bennett	Gettys	Morris
Betts	Gialmo	Morrison
Boggs	Gilligan	Morse
Boland	Goodell	Mosher
Bolton	Greigg	Murphy, Ill.
Bray	Grider	Murphy, N.Y.
Brock	Griffin	Murray
Brooks	Griffiths	Natcher
Broomfield	Gross	Nelsen
Brown, Ohio	Grover	O'Brien
Broyhill, N.C.	Gubser	O'Hara, Mich.
Broyhill, Va.	Gurney	O'Konski
Buchanan	Hagan, Ga.	Olsen, Mont.
Burke	Haley	O'Neal, Ga.
Burleson	Hall	Passman
Byrne, Pa.	Halleck	Patman
Byrnes, Wis.	Halpern	Pelly
Cabell	Hamilton	Perkins
Cahill	Hanley	Philbin
Callan	Hansen, Iowa	Pickle
Callaway	Hansen, Wash.	Pike
Carey	Hardy	Pirnie
Carter	Harris	Poage
Casey	Harsha	Poff
Cederberg	Harvey, Mich.	Price
Chamberlain	Hathaway	Pucinski
Chelf	Hechler	Purcell
Clancy	Henderson	Quile
Clark	Herlong	Quillen
Clawson, Del.	Hicks	Reid, Ill.
Cleveland	Horton	Reifel
Collier	Hosmer	Reinecke
Colmer	Hull	Rhodes, Ariz.
Conable	Hungate	Rivers, Alaska
Cooley	Huot	Rivers, S.C.
Corbett	Hutchinson	Roberts
Cramer	Ichord	Robison
Culver	Irwin	Rogers, Colo.
Cunningham	Jacobs	Rogers, Fla.
Curtin	Jennings	Rogers, Tex.
Curtis	Johnson, Pa.	Ronan
Daddario	Jonas	Rooney, N.Y.
Dague	Jones, Mo.	Rooney, Pa.
Davis, Ga.	Karsten	Rostenkowski
Davis, Wis.	Keith	Roudebush
Dawson	Kelly	Satterfield
de la Garza	Kirwan	St Germain
Dent	Kluczyński	St. Onge
Denton	Kornegay	Saylor
Devine	Kunkel	Schisler
Dickinson	Laird	Schmidhauser
Dingell	Landrum	Schneebell
Donohue	Langen	Scott
Dorn	Latta	Selden
Dowdy	Lennon	Senner
Dulski	Lipscomb	Shipley
Duncan, Tenn.	Long, La.	Sikes
Dwyer	McCulloch	Slack

Smith, Calif.	Thomson, Wis.	Whalley
Smith, Iowa	Trimble	White, Idaho
Smith, N.Y.	Tuck	White, Tex.
Smith, Va.	Tupper	Whitener
Springer	Tuten	Whitten
Stafford	Ullman	Williams
Staggers	Utt	Willis
Stanton	Waggonner	Wilson, Bob
Stephens	Walker, Miss.	Wolff
Stubblefield	Walker, N. Mex.	Wright
Taylor	Watkins	Wyatt
Teague, Calif.	Watson	Young
Tenzer	Watts	Younger
Thompson, Tex.	Weltner	Zablocki

NAYS—103

Addabbo	Hagen, Calif.	Pepper
Anderson, Ill.	Hanna	Race
Andrews,	Hansen, Idaho	Redlin
N. Dak.	Hawkins	Reid, N.Y.
Bingham	Hays	Resnick
Blatnik	Helstoski	Reuss
Bolling	Howard	Rhodes, Pa.
Brademas	Johnson, Calif.	Rodino
Brown, Calif.	Karth	Roncallo
Burton, Calif.	Kastenmeier	Roosevelt
Burton, Utah	King, Utah	Rosenthal
Cameron	Krebs	Roush
Clevenger	Leggett	Roybal
Cohelan	Long, Md.	Rumsfeld
Conte	Love	Scheuer
Conyers	McCarthy	Schweiker
Corman	McClory	Secrest
Daniels	McFall	Sickles
Delaney	McGrath	Sisk
Derwinski	Mackie	Stalbaum
Dow	Madden	Stratton
Duncan, Oreg.	Mathias	Sullivan
Dyal	Matsunaga	Sweeney
Erlenborn	Miller	Talcott
Farbstein	Minish	Udall
Flood	Mink	Van Deerlin
Ford,	Moorhead	Vanik
William D.	Moss	Vigorito
Fraser	Multer	Vivian
Gallagher	Nedzi	Widnall
Gibbons	Nix	Wilson
Gilbert	O'Hara, Ill.	Charles H.
Gonzalez	Olson, Minn.	Wydler
Grabowski	O'Neill, Mass.	Yates
Green, Oreg.	Ottinger	
Green, Pa.	Patten	

ANSWERED "PRESENT"—1

Joelson

NOT VOTING—44

Abbitt	Friedel	McVicker
Albert	Gray	Morton
Ashley	Harvey, Ind.	Pool
Berry	Hébert	Powell
Bonner	Holifield	Randall
Bow	Holland	Ryan
Celler	Jarman	Shriver
Clausen,	Johnson, Okla.	Skubitz
Don H.	Jones, Ala.	Steed
Craley	Kee	Teague, Tex.
Diggs	Keogh	Thomas
Dole	King, Calif.	Thompson, N.J.
Downing	King, N.Y.	Todd
Edmondson	Lindsay	Toll
Edwards, Calif.	McEwen	Tunney

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Keogh for, with Mr. Thompson of New Jersey, against.

Mr. Hébert for, with Mr. Celler against.

Mr. Abbitt for, with Mr. Ashley against.

Mr. Friedel for, with Mr. Edwards of California, against.

Mr. Pool for, with Mr. Powell against.

Mr. Downing for, with Mr. Ryan against.

Mr. Kee for, with Mr. Holifield against.

For this day:

Mr. Edmondson with Mr. Berry.

Mr. Tunney with Mr. Don H. Clausen.

Mr. Craley with Mr. Shriver.

Mr. Todd with Mr. Dole.

Mr. Toll with Mr. McEwen.

Mr. Bonner with Mr. King of New York.

Mr. Holland with Mr. Skubitz.

Mr. Johnson of Oklahoma with Mr. Morton.

Mr. Randall with Mr. Bow.

Mr. Diggs with Mr. Lindsay.
 Mr. Gray with Mr. Harvey of Indiana.
 Mr. Teague of Texas with Mr. McVicker.
 Mr. King of California with Mr. Steed.
 Mr. Jones of Alabama with Mr. Jarman.

Mr. GLENN ANDREWS changed his vote from "nay" to "yea."

Mr. DANIELS changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND REMARKS

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members who may desire to do so may extend their own remarks in the RECORD just prior to the vote on the conference report.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CORRECTION OF ROLL CALL

Mrs. BOLTON. Mr. Speaker, on the last roll call vote I was present on the floor and answered when my name was called and I voted "yea." I understand that I was not recorded and evidently I was not heard when I voted. I ask that the roll call be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

DEVELOPMENT OF THE NATION'S NATURAL RESOURCES

Mr. ASPINALL. Mr. Speaker, I call up the conference report on the bill (S. 21) to provide for the optimum development of the Nation's natural resources through the coordinated planning of water and related land resources, through the establishment of a water resources council and river basin commissions, and by providing financial assistance to the States in order to increase State participation in such planning, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER. The Clerk will read the statement of the managers on the part of the House.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 8, 1965.)

Mr. ASPINALL. Mr. Speaker, the report has been printed and has been available for several days. I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Colorado [Mr. ASPINALL].

Mr. ASPINALL. Mr. Speaker, the adoption by the Congress of the con-

ference report on S. 21 will bring to a successful conclusion 6 years of study and consideration of this legislation by the Committee on Interior and Insular Affairs and many additional years of study by executive agencies, commissions, etc. Legislation providing for effective Federal-State comprehensive river basin planning was recommended in the 1951 report of the Water Resources Policy Commission appointed by President Truman and the 1955 Report of the Presidential Advisory Committee on Water Resources Policy appointed by President Eisenhower.

Mr. Speaker, it was in 1959 that I first introduced legislation similar to that which is up today for final approval. In July, 1961 the first administration-sponsored measure was recommended to the Congress by President Kennedy.

The purpose of this legislation is to encourage and make possible the prudent development of the Nation's water and related land resources through sound, comprehensive and coordinated planning. An ample supply of good quality water is essential if the United States is to continue to grow and prosper. As our available supplies dwindle in relation to the increasing needs of our cities, our industries, and agriculture, it is important that we plan the use of our Nation's available supplies to provide maximum benefits to all purposes—providing water for domestic and industrial use and for irrigation, controlling floods, preventing pollution, assisting navigation, providing hydroelectric power and energy, providing outdoor recreation opportunities and fish and wildlife enhancement, and others. Almost daily, there are headline stories in our papers calling attention to water shortages and critical water situations throughout the Nation—East as well as the West. The planning mechanisms authorized by this legislation should greatly assist this national water resources planning effort and the development and management of our water resources.

A Cabinet level water Resources Council will be established with responsibility for guiding the Nation's planning effort in the water resources field and keeping the President and the Congress informed of the water needs of the Nation.

River basin planning commissions will be established on the basis of need and upon request of the States involved. They will prepare and keep up to date comprehensive, integrated joint plans for Federal, State, interstate, local, and non-governmental development of water and related land resources.

During the next 10 years, financial assistance will be provided to the States for water resources planning on a dollar-for-dollar matching basis. This will enable the States to play a more effective role in the planning, development, and conservation of their water resources.

The present responsibilities of the Federal Government or of the States relative to the development, control, or use of water will be neither expanded nor diminished by this legislation. Existing laws will not be modified or superseded and planning commissions will not be established where adequate planning is presently being accomplished by some

other means. The preparation of detailed plans for individual projects and the construction and operation of projects will continue to be the responsibility of appropriate Federal agencies, States, municipalities, local groups, or nongovernmental entities.

As indicated in the statement of managers on the part of the House the language of the conference report is, for the most part, the language of the House-passed bill. The provision adopted by the conference committee prohibiting any entity established by this legislation from studying the transfer of waters between areas under the jurisdiction of more than one river basin commission or a similar planning entity has caused considerable comment. I want to make it clear that this simply means that the authority for such studies is beyond the scope of this legislation. There is no intention to indicate such studies are not needed or to prejudge the merits of any proposal to study the transfer of waters between major river basins. It simply means that the authority for such studies must be based upon other than this legislation or must be obtained by additional authorization by the Congress.

I, for one, believe that such a study is needed at the present time in connection with critical water needs of the Colorado River Basin, but I believe the study should be specifically authorized so that all the States involved and others interested will know what we are doing and why, and there will be a clear understanding of the objectives of the study.

Mr. Speaker, because of the direct relationship between our Nation's water supplies and its economic well-being, I consider this conference report to be one of the most important measures that this Congress will approve. I am extremely pleased to be able to recommend its adoption.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ASPINALL. I yield to the gentleman from Iowa.

Mr. GROSS. Were there amendments to the bill by the other body?

Mr. ASPINALL. Only the one amendment of any importance.

Mr. GROSS. The amendments are germane to the bill?

Mr. ASPINALL. All amendments are germane to the bill.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD.)

[Mr. SAYLOR addressed the House. His remarks will appear hereafter in the Appendix.]

COINAGE ACT OF 1965

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 435 and ask for its immediate consideration.

The Clerk read the resolution as follows:



Public Law 89-92
89th Congress, S. 559
July 27, 1965

An Act

79 STAT. 282.

To regulate the labeling of cigarettes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Federal Cigarette Labeling and Advertising Act”. Federal Cigarette Labeling and Advertising Act.

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress, and the purpose of this Act, to establish a comprehensive Federal program to deal with cigarette labeling and advertising with respect to any relationship between smoking and health, whereby—

(1) the public may be adequately informed that cigarette smoking may be hazardous to health by inclusion of a warning to that effect on each package of cigarettes; and

(2) commerce and the national economy may be (A) protected to the maximum extent consistent with this declared policy and (B) not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations with respect to any relationship between smoking and health.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term “cigarette” means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A).

(2) The term “commerce” means (A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof; (B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or (C) commerce wholly within the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Johnston Island.

(3) The term “United States”, when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and Johnston Island.

(4) The term “package” means a pack, box, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed to consumers.

(5) The term “person” means an individual, partnership, corporation, or any other business or legal entity.

(6) The term "sale or distribution" includes sampling or any other distribution not for sale.

LABELING

SEC. 4. It shall be unlawful for any person to manufacture, import, or package for sale or distribution within the United States any cigarettes the package of which fails to bear the following statement: "Caution: Cigarette Smoking May Be Hazardous to Your Health." Such statement shall be located in a conspicuous place on every cigarette package and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

PREEMPTION

SEC. 5. (a) No statement relating to smoking and health, other than the statement required by section 4 of this Act, shall be required on any cigarette package.

(b) No statement relating to smoking and health shall be required in the advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

(c) Except as is otherwise provided in subsections (a) and (b), nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect, the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of cigarettes, nor to affirm or deny the Federal Trade Commission's holding that it has the authority to issue trade regulation rules or to require an affirmative statement in any cigarette advertisement.

(d)(1) The Secretary of Health, Education, and Welfare shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) current information on the health consequences of smoking and (B) such recommendations for legislation as he may deem appropriate.

(2) The Federal Trade Commission shall transmit a report to the Congress not later than eighteen months after the effective date of this Act, and annually thereafter, concerning (A) the effectiveness of cigarette labeling, (B) current practices and methods of cigarette advertising and promotion, and (C) such recommendations for legislation as it may deem appropriate.

Report to Con-
gress.

Report to Con-
gress.

CRIMINAL PENALTY

SEC. 6. Any person who violates the provisions of this Act shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than \$10,000.

INJUNCTION PROCEEDINGS

SEC. 7. The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this Act upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

CIGARETTES FOR EXPORT

SEC. 8. Packages of cigarettes manufactured, imported, or packaged (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdic-

July 27, 1965

- 3 -

Pub. Law 89-92
79 STAT. 284.

tion of the internal revenue laws of the United States shall be exempt from the requirements of this Act, but such exemptions shall not apply to cigarettes manufactured, imported, or packaged for sale or distribution to members or units of the Armed Forces of the United States located outside of the United States.

SEPARABILITY

SEC. 9. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the other provisions of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

TERMINATION OF PROVISIONS AFFECTING REGULATION OF ADVERTISING

SEC. 10. The provisions of this Act which affect the regulation of advertising shall terminate on July 1, 1969, but such termination shall not be construed as limiting, expanding, or otherwise affecting the jurisdiction or authority which the Federal Trade Commission or any other Federal agency had prior to the date of enactment of this Act.

EFFECTIVE DATE

SEC. 11. This Act shall take effect on January 1, 1966.
Approved July 27, 1965.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 449 accompanying H. R. 3014 (Comm. on Interstate & Foreign Commerce) and No. 586 (Comm. of Conference).
SENATE REPORT No. 195 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 111 (1965):
June 16: Considered and passed Senate.
June 22: Considered and passed House, amended, in lieu of H. R. 3014.
July 6: Senate agreed to conference report.
July 13: House agreed to conference report.

